



**AGENDA**  
**CITY OF ORMOND BEACH, FLORIDA**  
**CITY COMMISSION WORKSHOP**  
**November 13, 2012**  
**5:30 PM**

**Mayor Ed Kelley**

**Zone 1 – Commissioner James Stowers**

**Zone 3 – Commissioner Rick Boehm**

**Zone 2 – Commissioner Troy Kent**

**Zone 4 – Commissioner Bill Partington**

**CITY HALL TRAINING ROOM**

**22 South Beach Street, Ormond Beach, FL 32174**

**Phone: 386-677-0311**

**Web: [www.ormondbeach.org](http://www.ormondbeach.org)**

**1. CALL TO ORDER**

**2. DISCUSSION ITEMS**

**A. ENVIRONMENTAL LEARNING CENTER**

**Staff Contact:** *John Noble, City Engineer (386-676-3269)*

**B. CENTRAL PARK LAKE INTERCONNECT WATER OWNERSHIP RIGHTS**

**Staff Contact:** *John Noble, City Engineer (386-676-3269)*

**C. LDC AMENDMENT - DOGGIE DINING**

**Staff Contact:** *Ric Goss, Planning Director (386-676-3238)*

**3. ADJOURNMENT**

Website Address – [www.ormondbeach.org](http://www.ormondbeach.org)

**NOTICE** – Pursuant to Section 286.0105 of the Florida Statutes, if any person decides to appeal any decision made by the City Commission with respect to any matter considered at this public meeting, such person will need a record of the proceedings and for such purpose, such person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which the appeal is to be based.



For special accommodations, please notify the City Clerk's Office at least 72 hours in advance.  
Phone: 386-677-0311



Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the City Clerk's Office.

In accordance with the Americans with Disabilities Act (ADA), persons with a disability, such as a vision, hearing or speech impairment, or persons needing other types of assistance, and who wish to attend City Commission meetings or any other board or committee meeting may contact the City Clerk's Office in writing, or may call 386-677-0311 for information regarding available aids and services.



# CITY OF ORMOND BEACH

City Manager • 22 S. Beach Street • Ormond Beach • Florida • 32174 • (386) 676-3200 • Fax (386) 676-3384

## **CITY MANAGER MEMORANDUM**

**To:** The Honorable Mayor Kelley and City Commissioners

**Through:** Joyce A. Shanahan, City Manager

**From:** John Noble, City Engineer

**Date:** November 13, 2012

**Subject:** Environmental Learning Center

### **Introduction**

Staff is currently in the process of submitting to ECHO for grant funding for the Environmental Learning Center. In order to finalize the submittal package staff would like to receive direction from the City Commission on the preferred architectural design style for the building and also present the proposed site layout and discuss updated project costs.

### **Background**

The Environmental Learning Center was included in the 2012-13 five year Capital Improvement Program for construction to occur in FY 2013-14. In 2011, staff had worked with senior engineering students with FSU to develop a conceptual design for the Environmental Learning Center as part of a senior class project. Staff received a cost estimate from the FSU students that indicated a budget of \$400,000 should be considered for the project. This was the cost that staff included in the CIP for the project. Revenues for the project anticipated that funding support would be applied for through the Volusia County ECHO grant program. The ECHO grant program will provide up to a \$400,000 matching grant for eligible projects. On October 11, 2012, staff submitted the Environmental Learning Center to ECHO as part of its required technical completeness review. The purpose of this submittal is to allow the ECHO committee to confirm the project's eligibility for the ECHO grant program and to allow ECHO to provide comments regarding any suggestions they may have to improve the projects ranking and its eligibility for funding. On December 6, 2012, the final application is due to ECHO. In order to finalize the application package, staff would like direction from the City Commission on the preferred architectural style for the building. The ECHO application process key dates are as follows:

October 11, 2012 - Submitted Technical Completeness Application  
December 6, 2012 - Final ECHO Application Due  
February 2013 - Advisory Committee Ranks Applications  
March/April 2013 - County Council Reviews for approval ECHO Grant Selections

## October 2013 - ECHO Funds Available for Construction

### **Discussion**

The Environmental Learning Center is proposed to be located within Central Park on the north side of Division Avenue adjacent to the existing lake. The location allows for construction of a wrap around observation deck and canoe launch facility. The Learning Center location will also be adjacent to the proposed lake interconnect that will cross Division Avenue. In the attached PowerPoint that will be presented, three architectural concepts are being presented for the City Commission's consideration. The three concepts along with their estimated costs are provided below:

Concept 1: Florida Vernacular Architecture - \$257,438

Concept 2: Old Florida Cracker Architecture - \$289,558

Concept 3: Neo-Eclectic -Modern Architecture - \$294,853

Construction of the facility at this site will require construction of a parking lot with provision for bus parking as it is anticipated that the facility will be visited by students from local schools. The site presently does not have water and sewer available so extension of water and sewer facilities to the site is required. In addition the site plan also includes a covered entrance welcome pavilion and two observation docks at the lake's edge. The estimated cost to develop the site with water and sewer and parking facility, in addition to the building construction, is estimated at \$414,000.

### **Budget Impact**

The proposed project costs range from \$708,783 to \$671,368 depending on the selected architectural concept. Assuming the City receives the ECHO grant, grant funding of up to 50% of the project cost could be received. Funding in the amount of \$125,000 has been allocated from the General Capital Improvement Fund. Any additionally required City funding would need to be provided from the General Fund Reserves and a budget amendment would be necessary.

### **Recommendation**

In order to finalize the grant submittal to ECHO, staff is requesting direction on the preferred architectural concept. In addition, staff will need a resolution supporting the application at the updated project costs to include with the application.

Staff intends to submit this resolution for approval at the December 4th City Commission meeting based on the decisions made at this workshop.

### **Attachments:**

- ELC PowerPoint (PDF)
- Site Development Cost Estimate (XLSX)

- Building Cost Estimates (XLSX)

**REVIEWED BY:**

  
Kelly McGuire, Finance Director 11/7/2012

  
Theodore MacLeod, Assistant City Manager 11/7/2012

**APPROVED BY:**

  
Joyce Shanahan, City Manager 11/8/2012





# ORMOND BEACH'S ENVIRONMENTAL LEARNING CENTER

City Commission Workshop  
Date: November 13, 2012

## Project Team

Mark Dowst, P.E., Mark Dowst & Associates  
Cara Culliver, Landscape Designer, MDA  
Brian Fredley, BPF Design Incorporated  
Scott McCarthy, LEED Certified / GC, McCarthy Builders

Connecting People, Communities, & the Natural World





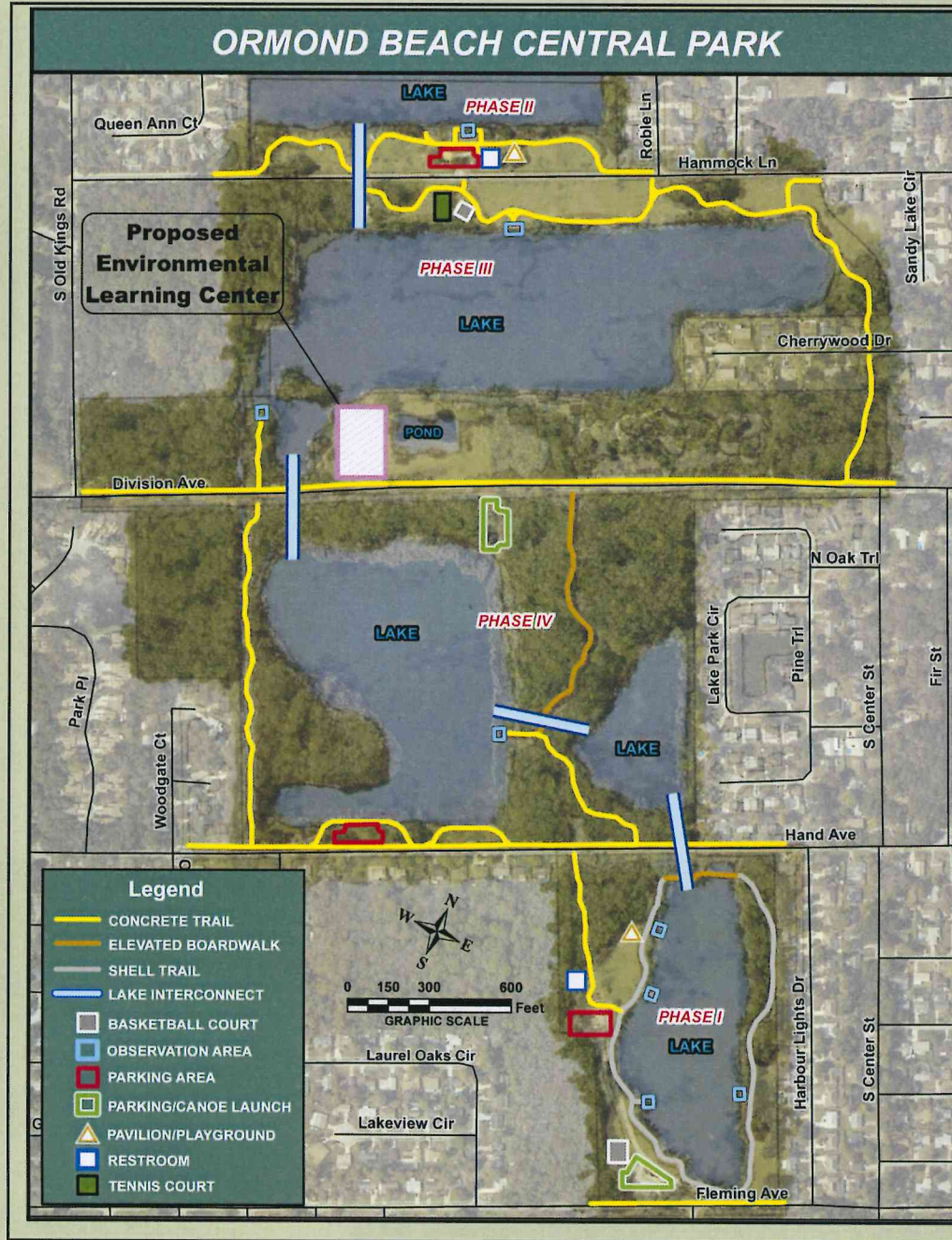
## MISSION STATEMENT

The City of Ormond Beach's ELC mission is to foster an awareness and appreciation of the natural environment by providing stimulating environmental education programs that inspire participants to be active stewards of their surrounding natural resources.



Connecting People, Communities, & the Natural World





## LOCATION MAP

The proposed ELC will be located within Central Park, on the North side of Division Avenue, East of Old Kings Road. Central Park consists of four parks totaling 149 Acres with five lakes. Central Park offers the following recreation and amenities.

- Fishing
- Canoeing
- Picnicking
- Tennis
- Walking/ Jogging
- Basketball
- Playgrounds



## EXISTING SITE FEATURES



- Lake Interconnect Provides Access to Explore
- Proposed Location Ideal for Wrap Around Observation Decks
- Sweeping Views of Entire Lake
- Existing Stormwater Retention to Utilize
- Existing Natural Vegetation Provides Opportunities for Education





## CONCEPTUAL SITE PLAN

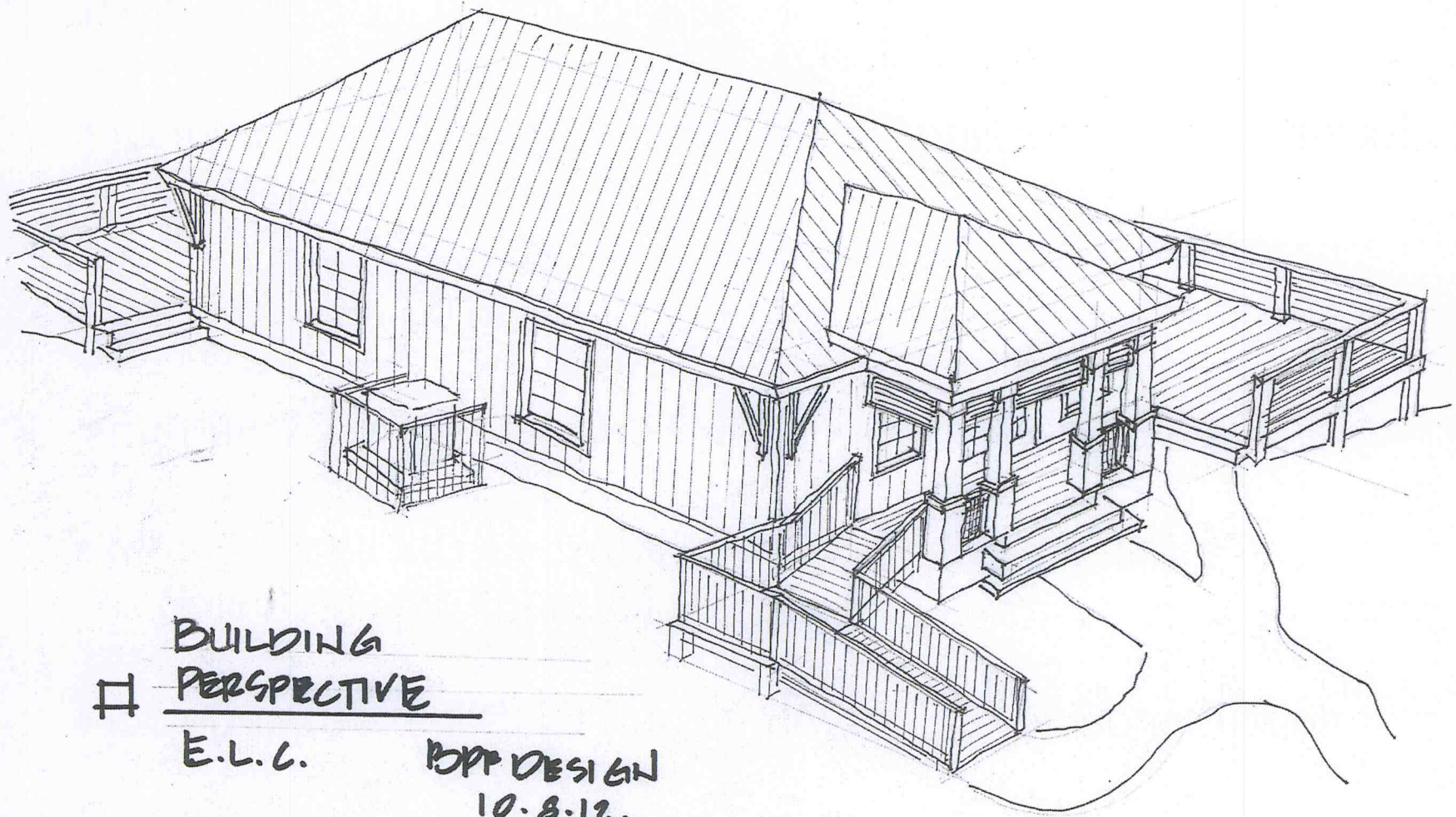




## ECHO GRANT KEY DATES

- October 11, 2012 - Submitted Echo Application for Technical Completeness Review
- December 6, 2012 - Submit Final ECHO Application
- February 2013 - Advisory Committee Ranks Applications
- March / April 2013 – County Council Reviews Grant Selections for Approval
- October 2013 - ECHO Funding Available for Construction



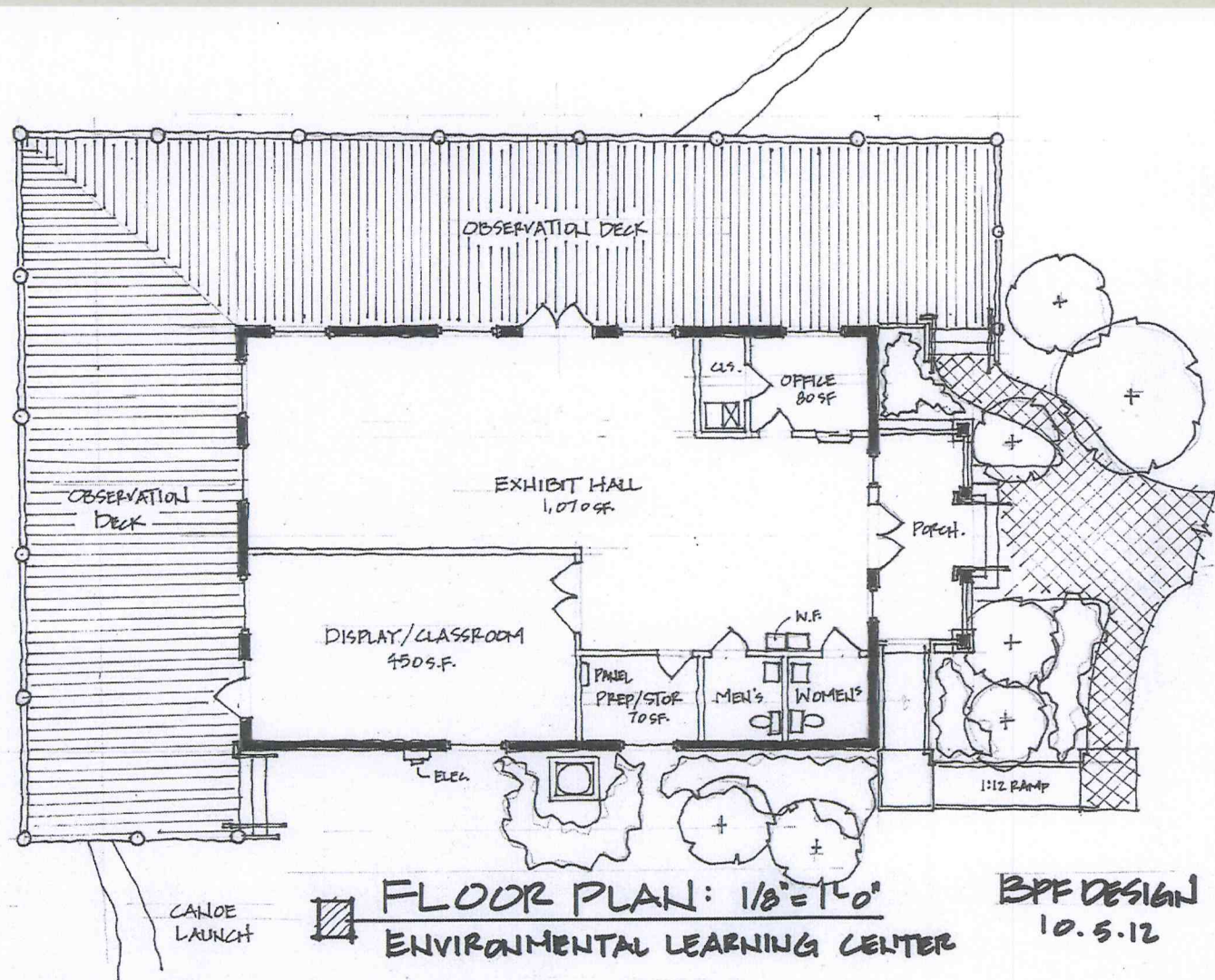


## ECHO CONCEPTUAL SUBMISSION

### Florida Vernacular Architecture



- PROJECT STATISTICS:
- E.L.C. BUILDING PORCH  
8'-0" x 20'-0" = 160 SF.
  - E.L.C. BUILDING AVE.  
55'-0" x 36'-4" = 2,000 SF.
  - OBSERVATION DECK  
2,136 SF.



## ECHO CONCEPTUAL SUBMISSION

Florida Vernacular Architecture



# THREE ARCHITECTURAL CONCEPTS

**CONCEPT 1:**  
Florida Vernacular Architecture



**CONCEPT 2:**  
Old Florida Cracker Architecture



**CONCEPT 3:**  
Neo Eclectic – Modern Architecture



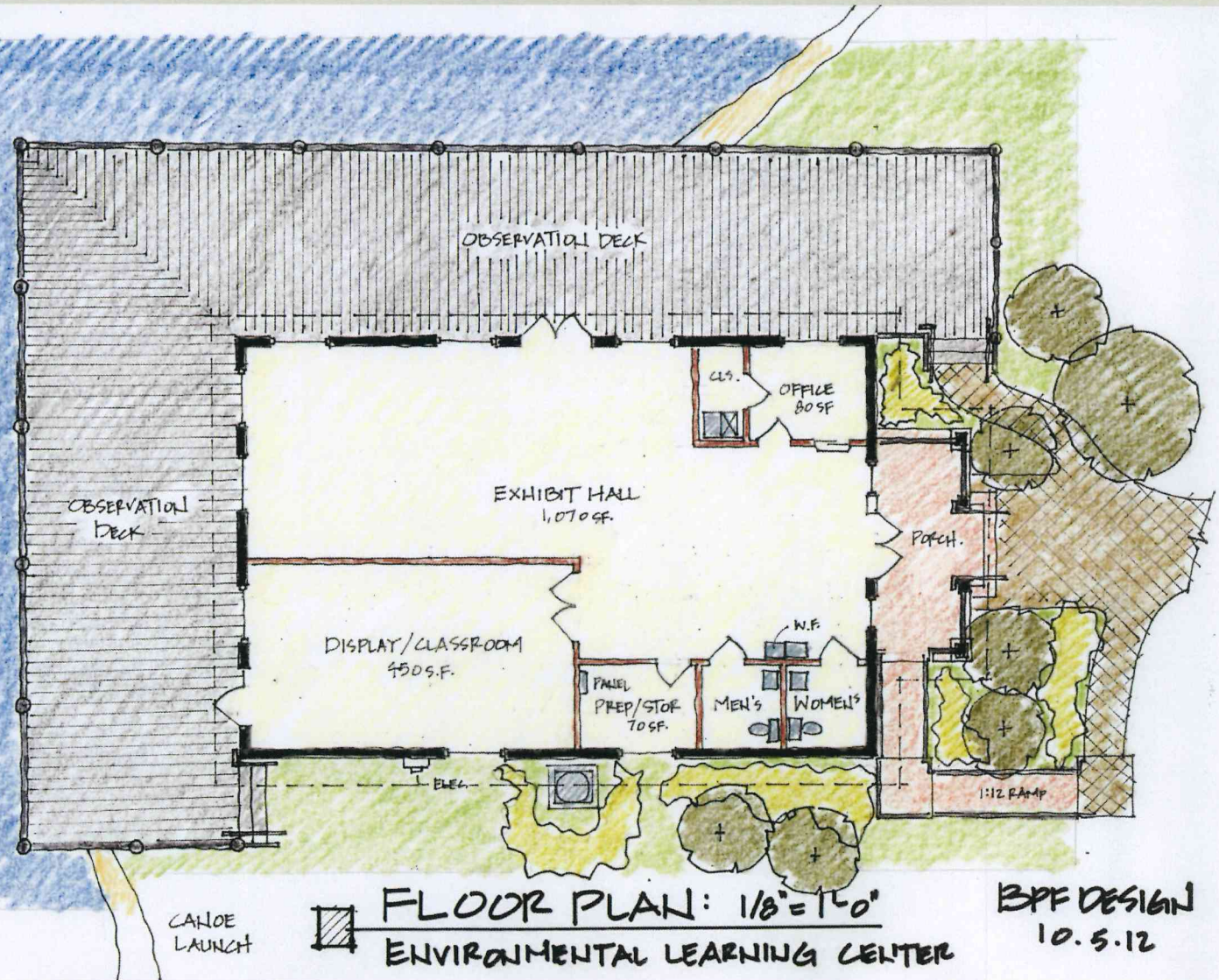




## CONCEPT 1 : Florida Vernacular Architecture

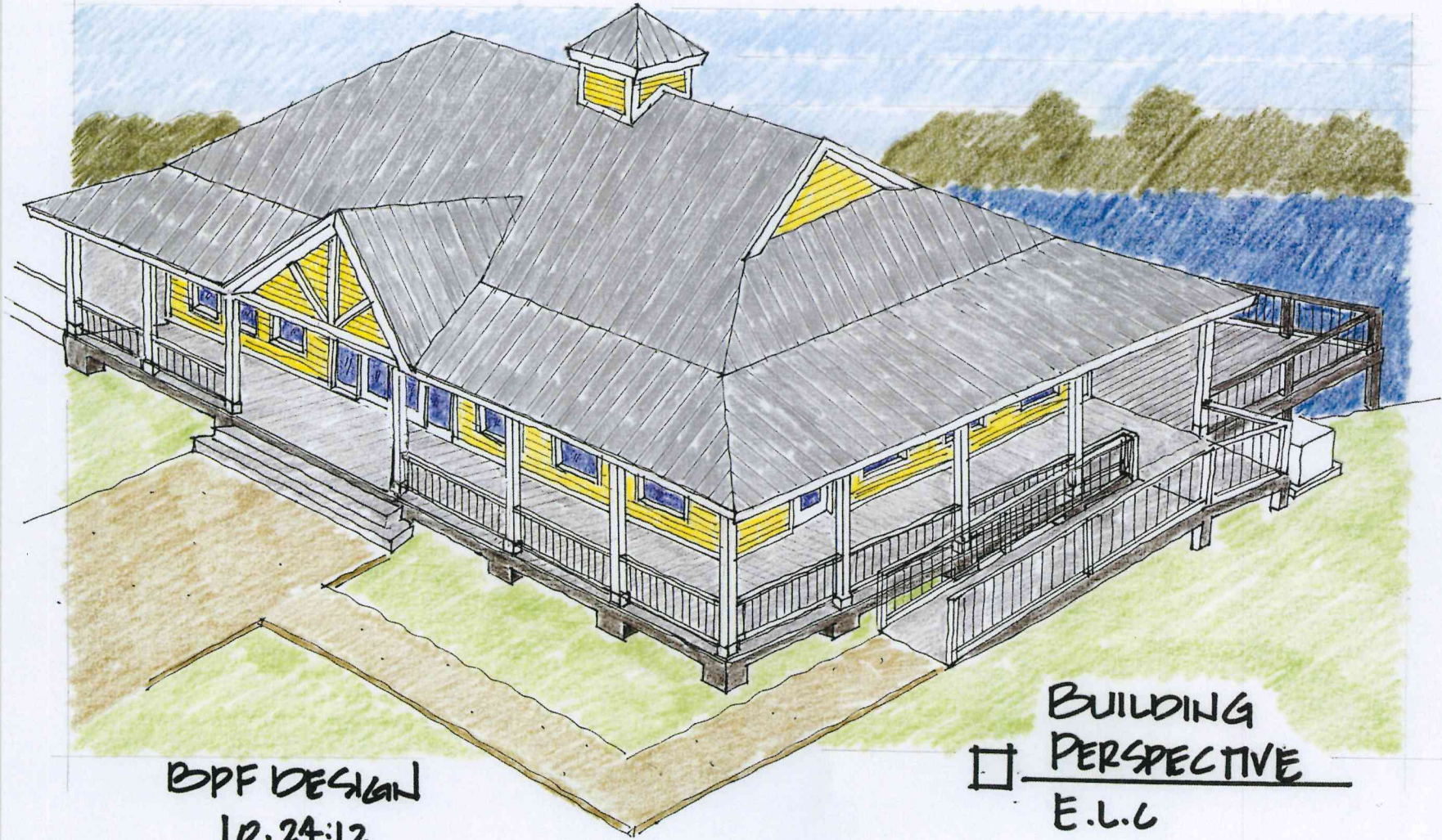


- PROJECT STATISTICS:
- E.L.C. BUILDING PORCH  
8'-0" x 20'-0" = 160 SF.
  - E.L.C. BUILDING A/C.  
55'-0" x 36'-4" = 2,000 SF.
  - OBSERVATION DECK  
2,136 SF.



## CONCEPT 1 : Florida Vernacular Architecture



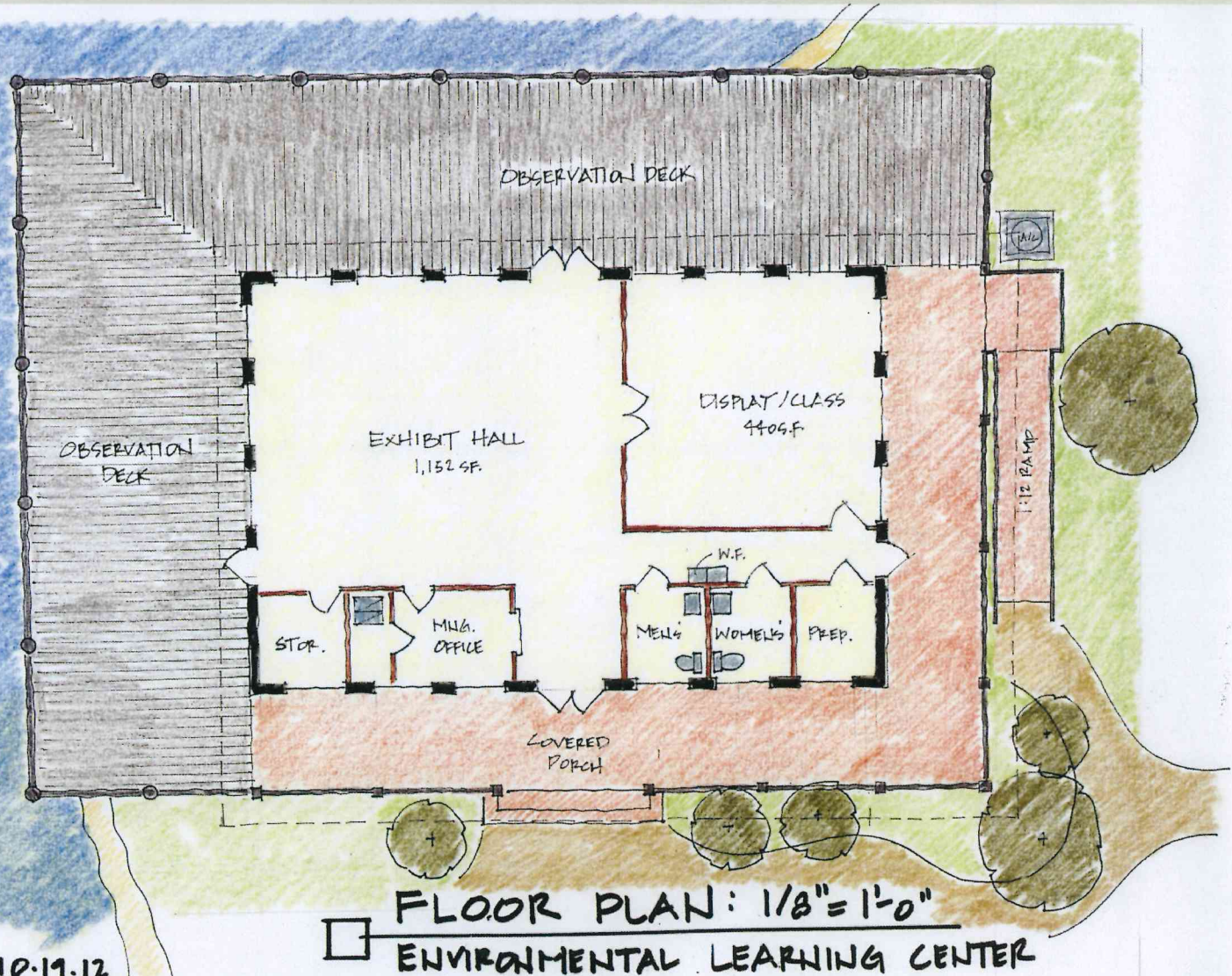


## CONCEPT 2 : Old Florida Cracker Architecture



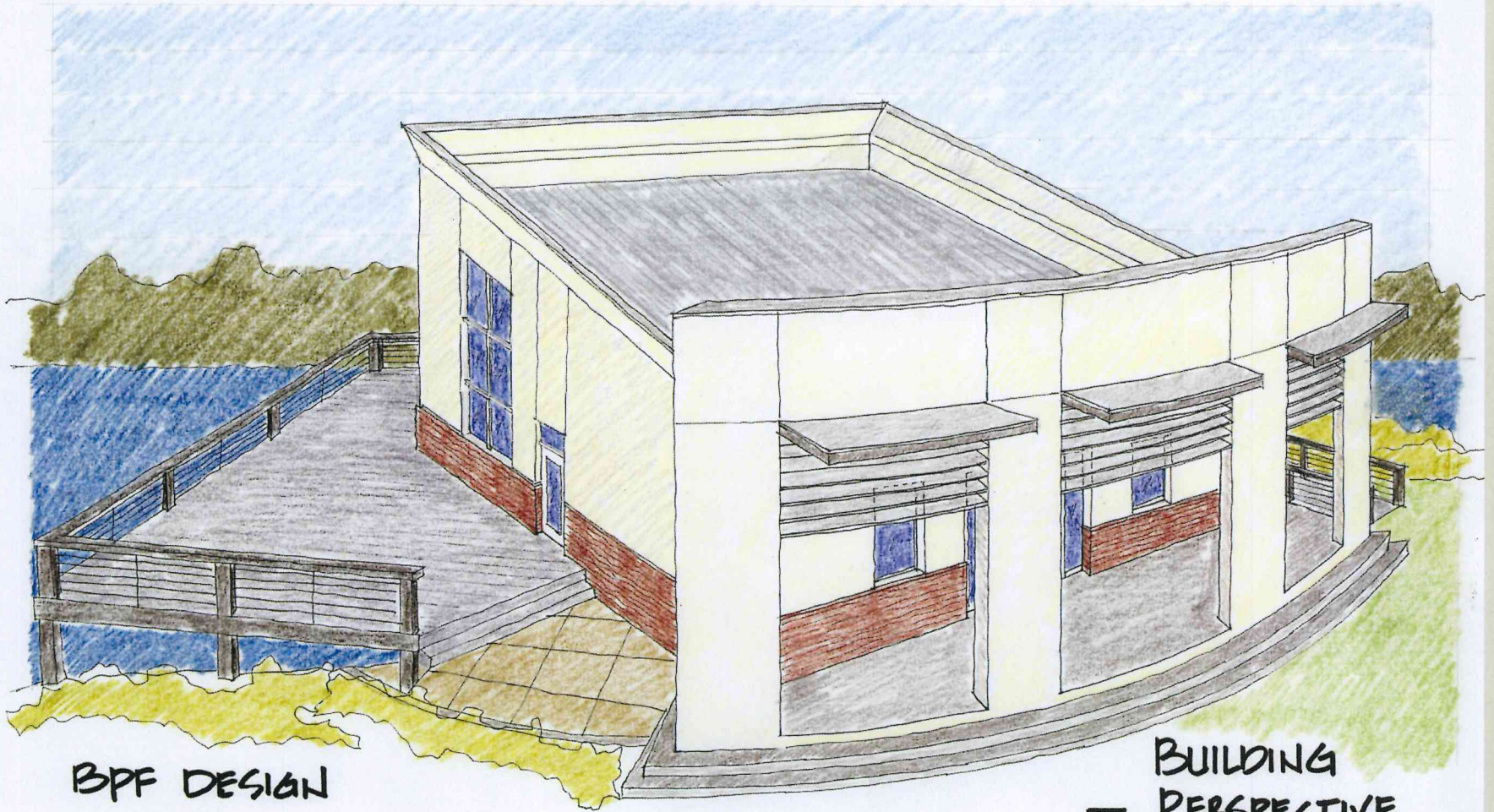
- PROJECT STATISTICS
- E.L.C. PORCH- COVERED  
8'-0" x 100'-0" = 800 SF
  - E.L.C. BUILDING A/C  
55'-0" x 36'-4" = 2,100 SF.
  - OBSERVATION DECK  
2,136 SF.

BPF  
DESIGN, INC 10.19.12



## CONCEPT 2 : Old Florida Cracker Architecture



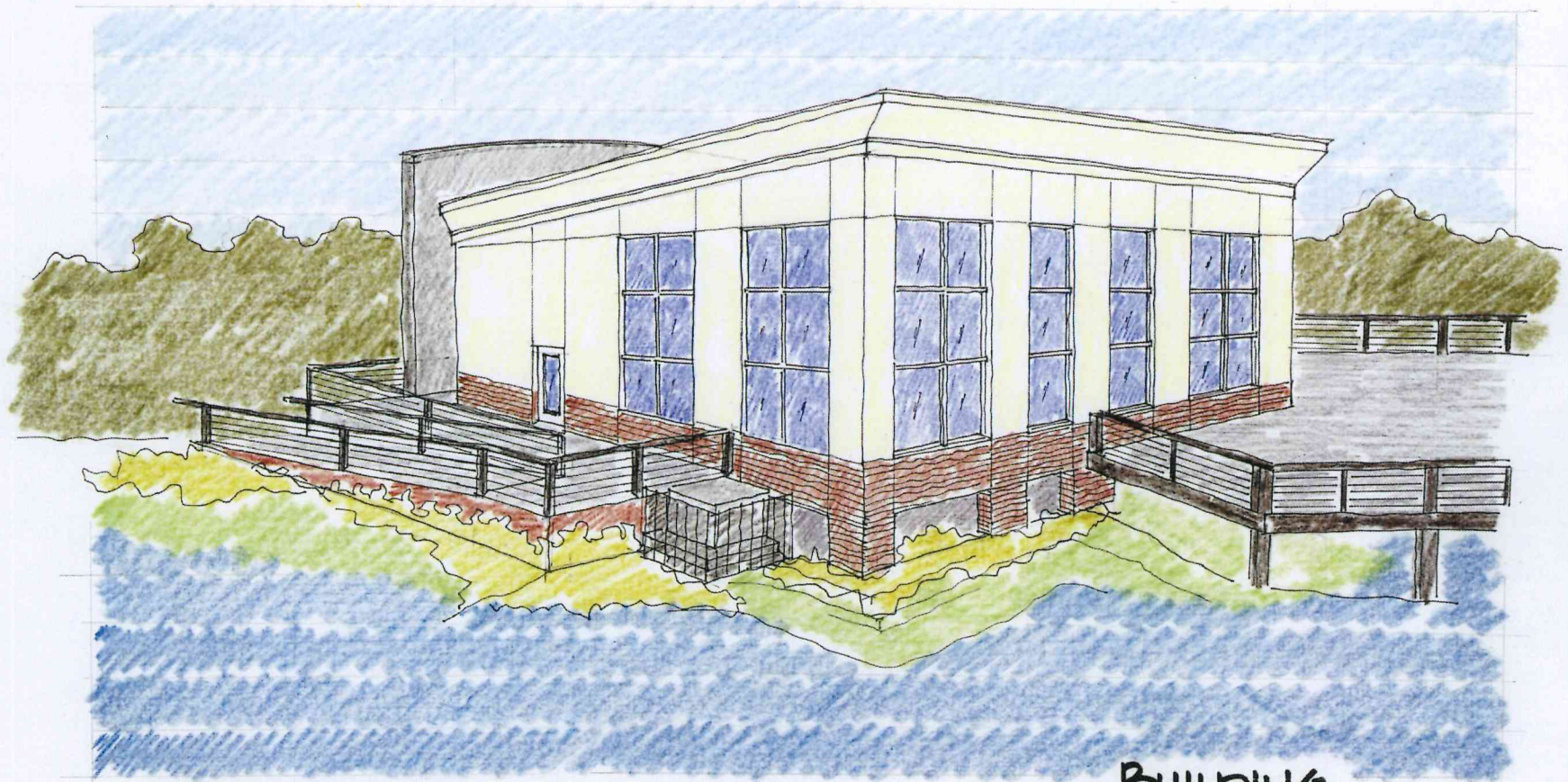


BPF DESIGN  
10.30.12

BUILDING  
PERSPECTIVE  
E.L.C.

## CONCEPT 3 : Neo Eclectic – Modern Architecture



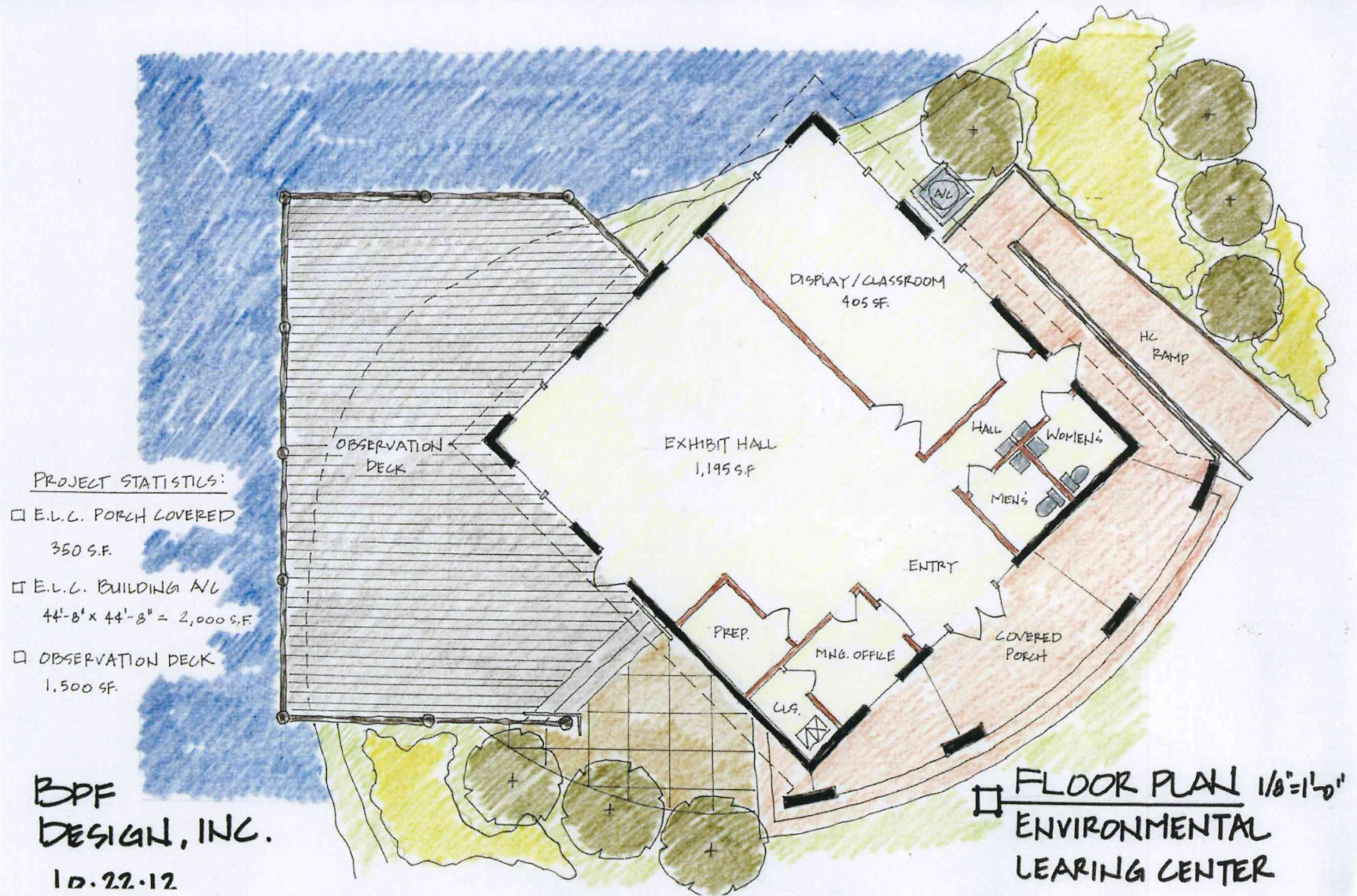


BPF DESIGN  
10.29.12

☐ BUILDING  
PERSPECTIVE  
E.L.C.

## CONCEPT 3 : Neo Eclectic – Modern Architecture





## CONCEPT 3 : Neo Eclectic – Modern Architecture



# PROPOSED SITE DESIGN PRINCIPLES

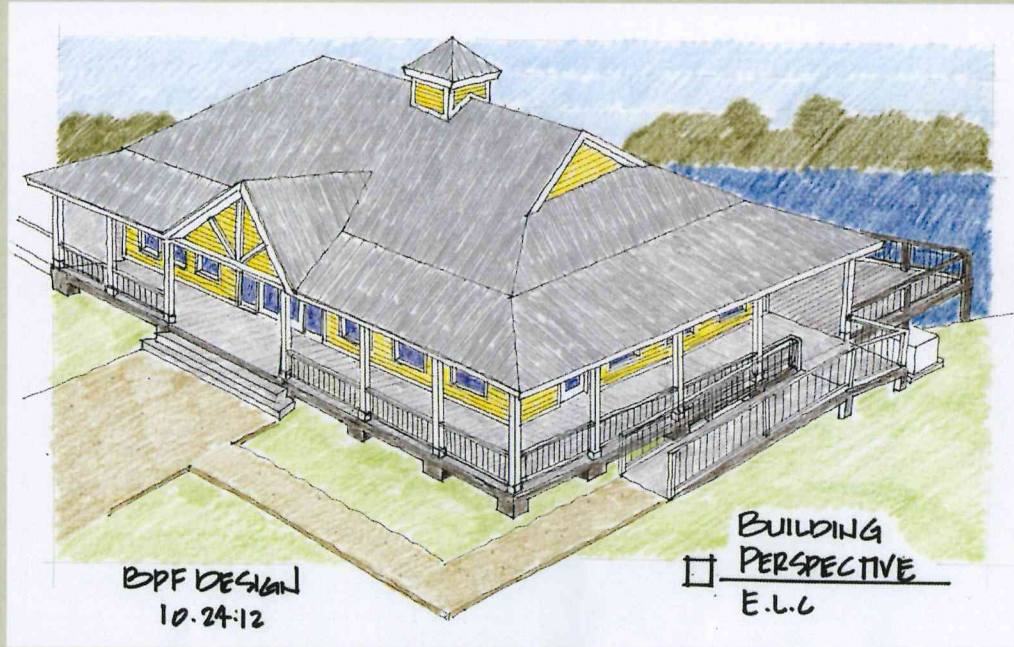


## (9) FLORIDA FRIENDLY AND GREEN SITE DEVELOPMENT DESIGN PRINCIPLES

- Right Plant, Right Place
- Water Efficiently
- Fertilize Appropriately
- Mulch
- Attract Wildlife
- Manage Yard Pests Responsibly
- Recycle
- Reduce Stormwater Runoff
- Protect the Waterfront
- Bus Parking to Provide Public Transportation Access
- Bicycle Storage Demonstrating Community Connectivity
- Protect And Restore the Natural Habitat
- Maximization of Open Space
- Vegetated Swales For Stormwater Quality Control
- Concrete Parking & Walks to Reduce Heat Island Effect
- Security Only Site Lighting to Avoid Light Pollution
- Native & Drought Tolerant Plantings for Reduced Water Usage
- Rain Harvesting and Storage for Irrigation



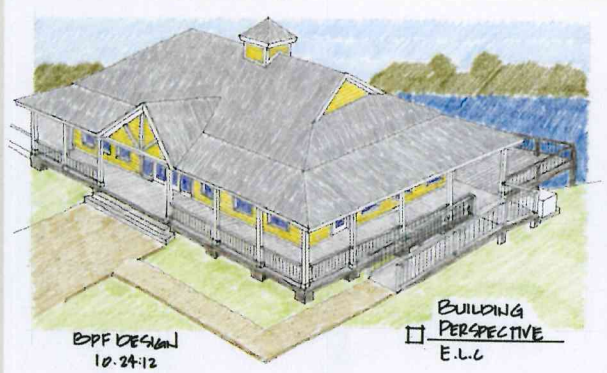
# PROPOSED BUILDING DESIGN PRINCIPLES



## GREEN BUILDING DESIGN PRINCIPLES

- Water Efficient Fixtures to Reduce Water Consumption
- High Efficiency Equipment for Optimal Energy Performance
- Automated Lighting Controls
- High Solar Reflectance Index Exterior Wall Surfacing and Paint
- Low-Emitting Paints, Flooring, Composite Wood and Adhesives
- Building Envelope with High Insulative Value
- Recycled Glass Solid Surface Countertops
- Energy Efficient Vinyl insulated Windows Sourced Regionally
- Roof with a High Solar Reflectance Index to Reduce Heat Island Effect
- Bamboo Flooring a Rapidly Renewable Resource
- Linoleum a Rapidly Renewable Resource
- Maximized Daylight & Views





## PROJECT COST

### CONCEPT 1 : Florida Vernacular Architecture

BUILDING COST:	\$257,438
SITE COST:	\$413,930
TOTAL COST:	<b>\$671,368</b>

### CONCEPT 2 : Old Florida Cracker Architecture

BUILDING COST:	\$289,558
SITE COST:	\$413,930
TOTAL COST:	<b>\$703,488</b>

### CONCEPT 3 : Neo Eclectic – Modern Architecture

BUILDING COST:	\$294,853
SITE COST:	\$413,930
TOTAL COST:	<b>\$708,783</b>

### REVENUES

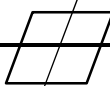
ECHO (pending approval)	\$200,000
Property Taxes – General CIP	\$125,000
Public Private Partnership	\$ 75,000
<b>Total</b>	<b>\$400,000</b>





## NEXT STEPS

- Approval of Proposed Location
- Selection of Architectural Concept
- Modify ECHO Grant Application
- Execute CC Resolution for ECHO Submittal and Matching Funds Statement
- Revise CIP Budget Amount in FY 13/14



**Mark Dowst & Associates, Inc.**  
ENGINEERS | PLANNERS | SURVEYORS

536 N. Halifax Avenue #100  
Daytona Beach, FL 32118  
PH: 386-258-7999 FAX: 386-257-4310

**Environmental Learning Center - City of Ormond Beach**  
**Project Budget**  
**11/08/12**

(Based upon conceptual rendering)

Site Work	QTY.	UNITS	EST. PRICE	TOTAL
Site Prep/Sod Removal/Site Grading	1	LS	\$10,000.00	\$10,000.00
Import fill off site & compact on site (24,252 SF @ 2' d	1,800	CY	\$8.00	\$14,400.00
6" Concrete Pavement (7,950 SF)	7,950	SF	\$4.00	\$31,800.00
6" Concrete Pavement (8,000 SF)	8,000	SF	\$4.00	\$32,000.00
6" Concrete Curbing	420	LF	\$12.00	\$5,040.00
6" Crushed Concrete Base	1,650	SY	\$8.00	\$13,200.00
6" Stabilized Subgrade	1,650	SY	\$3.00	\$4,950.00
Striping, Directional/HC Signage	1	LS	\$2,500.00	\$2,500.00
Wheel Stops	21	EA	\$30.00	\$630.00
Dewatering	1	LS	\$5,000.00	\$5,000.00
Pond Modification/Resodding	1	LS	\$7,500.00	\$7,500.00
Temp construction entrance/erosion control	1	LS	\$3,500.00	\$3,500.00
Drainage 12" PVC	170	LF	\$15.00	\$2,550.00
MES (12" PVC)	1	EA	\$250.00	\$250.00
Type C inlet	3	EA	\$2,500.00	\$7,500.00
Drainage 15" RCP	100	LF	\$25.00	\$2,500.00
Drainage 18" RCP	110	LF	\$30.00	\$3,300.00
MES (18" RCP)	1	EA	\$750.00	\$750.00
Survey, Layout, AsBuilt's	1	LS	\$5,000.00	\$5,000.00
Site Work TOTAL				\$152,370.00

HARDSCAPE	QTY.	UNITS	EST. PRICE	TOTAL
15'x15' Covered Welcome Pavillion	1	EA.	\$15,000.00	\$15,000.00
Wood Observation Decks (293 SF)	1	LS	\$2,500.00	\$2,500.00
Resuable Clay Bricks Labor/Base Only	225	SF	\$4.00	\$900.00
Clay Paver Sidewalk (4,011 SF)	3,800	SF	\$6.00	\$22,800.00
Park Entrance Sign (Monument Sign)	1	LS	\$10,000.00	\$10,000.00
Picnic Tables (Recycled Wood)	4	EA.	\$500.00	\$2,000.00
Bike Rack	1	EA.	\$750.00	\$750.00
Trash Receptacle (Recycled Wood)	2	EA.	\$850.00	\$1,700.00
Outdoor Informative Signage Boards (24"x36")	6	EA.	\$3,500.00	\$21,000.00
Site Lighting	1	LS	\$15,000.00	\$15,000.00
Echo Temp & Permit Sign	1	LS	\$3,000.00	\$3,000.00
HA TOTAL				\$94,650.00

UTILITIES	QTY.	UNITS	EST. PRICE	TOTAL
8" WM Potable Service Extension (1450 LF)	1,450	LF	\$30.00	\$43,500.00
Connect to existing 6" water main	1	LS	\$750.00	\$750.00
2" FM Sewage Collection System (1245 LF)	1,245	LF	\$7.00	\$8,715.00
Lift Station	1	LS	\$20,000.00	\$20,000.00
Tie into existing manhole (FM)	1	LS	\$1,000.00	\$1,000.00
Open Cut & patch existing 24' wide roadway	1	LS	\$1,000.00	\$1,000.00
Plug	1	EA	\$500.00	\$500.00
8" Gate Valve/Box	3	EA	\$1,250.00	\$3,750.00
Fire Hydrant	1	EA	\$3,500.00	\$3,500.00
1" RPBFP	1	EA	\$750.00	\$750.00
2" PE Water	300	LF	\$7.00	\$2,100.00
2" PE FM (Sewer)	1,245	LF	\$7.00	\$8,715.00
Impact Fees	1	LS	\$2,000.00	\$2,000.00

Attachment: Site Development Cost Estimate (1344 : Environmental Learning Center)

UT TOTAL	\$96,280.0	2.A.2
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LANDSCAPE & IRRIGATION	QTY.	UNITS	EST. PRICE	TOTAL
Landscape	1	LS	\$20,000.00	\$20,000.00
Irrigation	1	LS	\$8,000.00	\$8,000.00
Invasive Species Removal	1	LS	\$5,000.00	\$5,000.00
			LA TOTAL	\$33,000.00

SUB TOTAL	\$376,300.00
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CONTINGENCY: 10% OF SUB TOTAL	\$37,630.00
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GRAND TOTAL	\$413,930.00
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**ELC Budget per Scheme**

Project: Environmental Learning Center

Location: Ormond Beach, FL

**DISCLAIMER:** The following calculations are "budgetary" estimates derived from conceptual plans and in no way represent a hard bid.

	SCHEME #1	SCHEME #2	SCHEME #3
<b>GENERAL REQUIREMENTS</b>			
<i><b>MOBILIZATION, WASTE COLLECTION, TEMPORARY FACILITIES, ETC.</b></i>			
BUILDING PERMIT	\$1,650.00	\$1,795.00	\$1,820.00
INSURANCES	\$2,500.00	\$2,500.00	\$2,500.00
POSTAGE & PRINTING	\$400.00	\$400.00	\$400.00
TEMPORARY FACILITIES	\$950.00	\$950.00	\$950.00
WASTE RECYCLING CONTAINERS	\$1,650.00	\$1,650.00	\$1,650.00
<i><b>CONTRACTOR FEE</b></i>			
CONTRACTOR FEE (10%)	\$16,584.00	\$19,505.00	\$19,986.00
<b>CONCRETE</b>			
<i><b>CONCRETE</b></i>			
CONCRETE PIERS, FOOTINGS & SLAB	\$12,800.00	\$14,200.00	\$15,900.00
GROUT (CMU CONC. FILL CELLS & CAST-IN PLACE)	\$650.00	\$900.00	\$10,250.00
TERMITE PRETREATMENT	\$200.00	\$200.00	\$235.00
<b>MASONRY</b>			
<i><b>UNIT MASONRY</b></i>	\$1,700.00	\$2,900.00	\$13,140.00
<b>WOOD &amp; PLASTICS</b>			
<i><b>ROUGH CARPENTRY</b></i>			
ROUGH CARPENTRY (BLDG, HC RAMP & DECKS) MATERIALS	\$29,916.32	\$37,612.06	\$16,860.00
ROUGH CARPENTRY (BLDG, HC RAMP & DECKS) INSTALLATION	\$18,800.00	\$22,000.00	\$13,625.00
<i><b>PREFABRICATED STRUCTURAL WOOD</b></i>			
ROOF TRUSSES & WOOD BEAMS	\$5,960.00	\$7,812.00	\$5,580.00
ARCHITECTURAL WOODWORK	\$1,500.00	\$0.00	\$0.00
FASTENERS & ADHESIVES	\$1,140.00	\$1,140.00	\$1,140.00
<i><b>FINISH CARPENTRY</b></i>			
FINISH CARPENTRY MATERIAL	\$2,927.58	\$2,927.58	\$2,927.58
FINISH CARPENTRY INSTALLATION	\$1,500.00	\$1,500.00	\$1,500.00
<b>THERMAL AND MOISTURE PROTECTION</b>			
<i><b>WATERPROOFING</b></i>	\$1,200.00	\$1,200.00	\$1,200.00
<i><b>INSULATION &amp; SEALANTS</b></i>	\$4,000.00	\$4,000.00	\$6,000.00
<i><b>PREFORMED ROOFING &amp; CLADDING (SIDING, STUCCO, STONE)</b></i>	\$20,100.00	\$24,796.00	\$18,900.00
<i><b>EVE ENCLOSURES (SOFFIT &amp; FASCIA)</b></i>	\$9,200.00	\$10,200.00	\$0.00
<b>DOOR AND WINDOWS</b>			
<i><b>WOOD &amp; PLASTIC DOORS (INTERIOR)</b></i>	\$1,050.00	\$1,050.00	\$1,050.00
<i><b>ENTRANCES &amp; STOREFRONTS</b></i>	\$7,500.00	\$9,000.00	\$5,500.00
<i><b>WOOD &amp; PLASTIC WINDOWS</b></i>	\$8,300.00	\$16,600.00	\$26,978.00
<i><b>HARDWARE</b></i>	\$660.00	\$660.00	\$660.00
<b>FINISHES</b>			
<i><b>GYPSON BOARD</b></i>	\$6,400.00	\$6,400.00	\$9,600.00
<i><b>TILE</b></i>	\$2,100.00	\$2,100.00	\$2,100.00

Attachment: Building Cost Estimates (1344 : Environmental Learning Center)

**ELC Budget per Scheme**

Project: Environmental Learning Center

Location: Ormond Beach, FL

**DISCLAIMER:** The following calculations are "budgetary" estimates derived from conceptual plans and in no way represent a hard bid.

	SCHEME #1	SCHEME #2	SCHEME #3
<b>SPECIAL SURFACES (CONCRETE COUNTERS)</b>	\$1,200.00	\$1,200.00	\$1,200.00
<b>WOOD FLOORING (EXHIBIT HALL &amp; CLASSROOM)</b>	\$7,600.00	\$7,960.00	\$8,000.00
<b>RESILIENT FLOORING</b>	\$0.00	\$0.00	\$0.00
<b>CARPET (OFFICE, CLS, PREP/STOR)</b>	\$600.00	\$600.00	\$600.00
<b>PAINTING</b>	\$9,000.00	\$11,000.00	\$9,000.00
<b>WALLCOVERING (ENTRY WAINSCOTTING)</b>	\$1,500.00	\$1,000.00	\$1,000.00
<b>SPECIALTIES</b>			
<b>LOUVERS &amp; VENTS (SOLAR ROOF VENTS)</b>	\$1,200.00	\$1,200.00	\$0.00
<b>FIRE PROTECTION (FIRE EXTINGUISHERS)</b>	\$300.00	\$300.00	\$300.00
<b>EXTERIOR SUN CONTROL DEVICES</b>	\$2,400.00	\$0.00	\$15,000.00
<b>TOILET &amp; BATH ACCESSORIES</b>	\$950.00	\$950.00	\$950.00
<b>CLOSET SPECIALTIES (SHELVING &amp; STORAGE)</b>	\$700.00	\$700.00	\$700.00
<b>SIGNAGE</b>			
ECHO TEMPORARY SIGN	NIC	NIC	NIC
ECHO PERMANENT SIGN	NIC	NIC	NIC
SIGNAGE PERMANENT AND INTERIOR SIGNAGE ADA	\$150.00	\$150.00	\$150.00
<b>EQUIPMENT</b>			
<b>AUDIO-VISUAL EQUIPMENT (KIOSKS)</b>	\$15,000.00	\$15,000.00	\$15,000.00
<b>FURNISHINGS</b>			
<b>RUGS &amp; MATS (EXTERIOR WALK OFF MATS)</b>	\$1,000.00	\$1,000.00	\$1,000.00
<b>SPECIAL CONSTRUCTION</b>			
<b>BUILDING AUTOMATION SYSTEMS</b>	\$3,000.00	\$3,000.00	\$3,000.00
<b>MECHANICAL</b>			
<b>PLUMBING</b>	\$8,500.00	\$8,500.00	\$8,500.00
<b>HVAC</b>	\$14,000.00	\$14,000.00	\$21,000.00
<b>ELECTRICAL</b>			
<b>ELECTRICAL &amp; LIGHTING</b>	\$25,000.00	\$25,000.00	\$25,000.00
<b>SPECIAL SYSTEMS (SECURITY SYSTEM)</b>	\$3,000.00	\$3,000.00	\$3,000.00
<b>COMMUNICATIONS</b>	\$1,000.00	\$1,000.00	\$1,000.00
<b>TOTAL</b>	<b>\$257,437.90</b>	<b>\$289,557.64</b>	<b>\$294,852.00</b>

Attachment: Building Cost Estimates (1344 : Environmental Learning Center)





# CITY OF ORMOND BEACH

City Manager • 22 S. Beach Street • Ormond Beach • Florida • 32174 • (386) 676-3200 • Fax (386) 676-3384

## **CITY MANAGER MEMORANDUM**

**To:** The Honorable Mayor Kelley and City Commissioners

**Through:** Joyce A. Shanahan, City Manager

**From:** John Noble, City Engineer

**Date:** November 13, 2012

**Subject:** Central Park Lake Interconnect Water Ownership Rights

### **Introduction**

Staff would like to update the City Commission regarding a claim by Paul Duncan that he has ownership rights over the waters of the Central Park Lake that abuts his property.

### **Background**

At a previous City Commission meeting Paul Duncan approached the City Commission and stated that he was informed that the City had plans to interconnect the Central Park Lakes as part of a recommendation to mitigate flooding that occurred in the Laurel Creek basin area during the 2009 no name storm. He then stated that he had ownership rights to the waters of the lake and that it would be illegal for the City to proceed with this improvement without his approval.

The City has received a FEMA HMGP grant for the interconnects of all the Central Park lakes. The grant will pay 75% of the project's cost. Staff has completed design for the project and has secured all State permits and is ready to advertise the project for bids. In order to be able to complete the project within the Period of Performance required by the FEMA grant, the project will need to be advertised for bids no later than December 2012.

### **Discussion**

Staff met with Paul Duncan to discuss his claim and concerns with the project. After a lengthy discussion in which Mr. Duncan provided no material evidence of his ownership rights to the water, staff was unable to come to a solution with regards to his concerns with the proposed interconnects nor sway his opinion on legal ownership rights. Following the meeting the City Attorney contracted to have an independent law firm provide a legal analysis of issues surrounding the rights of adjacent property owners. The results of this study (see attached) state that there appears to be no legal right of an adjacent property owner to prevent the City from proceeding with construction of the

interconnections of the Central Park Lakes as proposed.

Staff intends to meet with Mr. Duncan on Monday, November 12th (as he is out of town and will not return until the 12<sup>th</sup>) and inform him of the findings from the independent analysis in a final attempt to come to some consensus. Staff will provide an update to the City Commission at this workshop regarding the results of that meeting.

### **Budget Impact**

No budget impacts are associated with this item.

### **Recommendation**

Based on the legal findings, staff is planning on proceeding with bidding the lake Park Interconnect project unless otherwise directed by the City Commission.

### **Attachments:**

- Independent Legal Analysis (TIF)

**REVIEWED BY:**

  
Kelly McGuire, Finance Director 11/8/2012

  
Theodore MacLeod, Assistant City Manager 11/8/2012

**APPROVED BY:**

  
Joyce Shanahan, City Manager 11/8/2012

# HEEBNER, BAGGETT, UPCHURCH & GARTHE, P.L.

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October 23, 2012

Mr. Randy Hayes, City Attorney  
City of Ormond Beach  
173 South Beach Street  
Ormond Beach, FL 32174

RE : LEGAL ANALYSIS OF ISSUES SURROUNDING RIGHTS OF ADJACENT PROPERTY  
OWNERS WITH RESPECT TO THE PROPOSED INTERCONNECTION OF WATER BODIES  
IN CENTRAL PARK, ORMOND BEACH, FLORIDA

Dear Mr. Hayes:

Pursuant to our engagement by the City of Ormond Beach, we have reviewed and analyzed the rights of property owners adjacent to certain water bodies in the Central Park area of Ormond Beach. The results are as follows:

## Historical Background of Central Park<sup>1</sup>

The area currently known as "Central Park" in the City of Ormond Beach (the "City") consists of various irregularly shaped parcels of land located in an area between Sandy Oaks Blvd. to the North, Sandy Lakes Circle to the East, Fleming Ave. to the South, and S. Old Kings Road to the West. The City of Ormond Beach Planning Department has divided it into four phases. Phase I is the southernmost portion running from Fleming Ave. to Hand Ave., Phase IV from Hand Avenue to north of Division Ave., Phase III from the northerly Phase IV border to Hammock Lane, and Phase II from Hammock Blvd. to near Sandy Oaks Blvd.

Public ownership of the area known as "Central Park" began when the City purchased approximately 30 acres of property at a tax sale prior to 1956. A formal plan for development of the area by the City began in 1976 when an agreement was reached with Mr. and Mrs. Rex Dills, who at the time owned approximately 65 acres in the area. The Dills had been conducting excavation on their properties by removing the shell underlying the surface for use in construction. After the City began to regulate excavation of property within its boundaries, the Dills and the City reached a series of agreements commencing in 1976 which permitted the Dills to continue excavation of the properties for various periods of time in exchange for them deeding ownership of the properties to the City.

<sup>1</sup> Information concerning the historical background of Central Park is taken primarily from an article in the Daytona Beach News Journal dated October 12, 1976, included as Appendix 1, which quotes then Ormond Beach City Manager Gerald Althouse. Only certain historical facts such as the excavation agreements with the Dills, the deeds from the Dills to the City, acquisition by the City of other properties in the area, and the connection of the City storm water drainage system were capable of independent verification.

After the agreement was reached with the Dills, the City began to draw formal plans for the development of Central Park. The Dills' property already contained two lakes of approximately 20 and 35 acres. The City planned to accumulate a total of approximately 200 acres of "marginal lowland" in the area and envisioned making it into a public land-water recreational area containing walking trails and a boat basin, with paddleboats, canoes, and electric boats traveling along a series of interconnecting canals to various lakes. In addition to its use as a public recreational area, the City envisioned connecting the lakes with the City's storm water drainage system and using it as a retention basin, thereby improving overall drainage in the area.

Since 1976, the City has acquired approximately 50 acres of additional property from Volusia County and other parcels from companies or individuals through agreements or eminent domain and has developed various portions of Central Park for recreational use. In addition, the City has connected portions of its storm water drainage system to the lakes in the area, which now also serve as retention areas.

### **Historical Development of Lakes in Central Park**

Aerial photographs of the Central Park area from 1951 until the present are attached as Appendix 2. In 1951, none of the five lakes now existing in Central Park are depicted. In 1958, only very small portions of the lakes as they exist today can be seen. By 1963, the western portion of Lake # 2 is clearly shown and in 1967 substantial portions of Lake #'s 2 and 5 can be seen. By 1975, Lake #'s 1, 2, and 5 exist in substantially the form that they exist in today and approximately one-half of Lake 4 has been formed.

The development of the lakes from 1958 through 1976 indicated in the aerial photographs is consistent with the information contained in the Historical Background of Central Park and the agreements made by the City with the Dills to permit continued excavation on the properties acquired from the Dills. Although there may have originally been some low lying portions of the land in the area, it appears that the lakes are shell or borrow pits resulting from the excavation conducted by the Dills and others in the area which commenced in the 1950's.

### **Purpose and Description of Proposed Interconnections**

Central Park currently contains five lakes, designated as, from North to South, Lakes 1-5.<sup>2</sup> In addition to Mr. Althouse's original vision of interconnecting the lakes for recreational use, the lakes were envisioned as serving as part of the City's flood control and stormwater retention system. Currently, the lakes are connected to various portions of the City's system and used for stormwater drainage. Subsurface drain systems collect runoff from Hand Avenue and the Oak Trails West subdivision and route it to Lake 5. Lakes 1 and 2 are directly connected to Laurel Creek. There is an existing pumping station at Bennett Lane which is currently used to pump down the water levels of Lakes 1 and 2 to provide additional storage capacity for stormwater drainage and retention.

In 2010, the City obtained a Stormwater Flooding Investigation Study (the "CDM Report") which investigated the flooding which resulted during the May, 2009 storm. The CDM Report notes that the Laurel Creek area is located in a floodplain. During the May, 2009 storm, the ponds in the Central Park area overtopped their banks, resulting in flooding in the surrounding subdivisions, particularly Oak Trails West and Laurel Oaks.

<sup>2</sup> Appendix 3

To reduce the potential for future flooding in the area, CDM recommended interconnecting the lakes with open channel canals allowing the lakes to act as a unified, single system. If the lakes are interconnected, prior to and during a major storm event the Bennett Lane pumping station can be used to lower the water levels in all of the five lakes in Central Park, thus providing additional storage capacity for stormwater during significant rain events and reducing the potential for flooding in the surrounding subdivisions.

In response to the recommendations in the CDM Study, the City applied to the St. Johns River Water Management District (“SJRWMD”) in October, 2010 for an Environment Resource Permit to interconnect Lakes 3, 4 and 5 to control flooding. Environmental Resource Permit Number 4-127-23135-5 was issued to the City in August, 2011 permitting, *inter alia*, “the construction of a Surface Water Management System to interconnect three existing lakes/borrow pits”.<sup>3</sup> The Technical Staff Report (“TSR”) of the SJRWMD noted that the project would not contribute to any violations of the state water quality standards. Interestingly, the TSR also noted that the natural northward flow of Laurel Creek to the Tomoka River had been interrupted when shell pit excavation commenced in the mid-1950’s.<sup>4</sup>

The City filed an application to amend this Permit by adding canal interconnections to Lakes 1 and 2, which was approved in May, 2012.<sup>5</sup> In the TSR for this application, SJRWMD noted that the City had “provided reasonable assurance that the proposed interconnected pit-lake system will not result in adverse water quality”.<sup>6</sup>

Interconnectivity of the Lakes is to be achieved by constructing open channel canals, each canal approximately 14 feet in width (20 feet including side banks).<sup>7</sup> The depth of the canals would be approximately four feet at normal water level. Except during special storm events when water is pumped in advance of the storm from the Bennett Lane pumping station to provide additional storage capacity in the Lakes, the existing water levels of the Lakes are not expected to be affected.<sup>8</sup> In order to meet the deadline for completion contained in the grants received by the City which are to be used to provide funding for the project, a construction contract for the interconnections will need to be put out for bid in December, 2012.

## Applicable Law

### Record Ownership and Recorded Easements

To date, no property owner adjacent to the Lakes in Central Park has asserted a claim to ownership of the Lakes (or other property in Central Park to which the City claims title) based upon deeds or easements recorded in the Official Records of Volusia County. Due to the cost and time necessary to obtain a title search of all properties owned by the City comprising Central Park, it is assumed for purposes of this Analysis that the City holds marketable title to all property comprising Central Park and its Lakes and that no recorded easements affecting the Lakes exist.<sup>9</sup>

<sup>3</sup> Appendix 4

<sup>4</sup> Appendix 5

<sup>5</sup> Appendix 6

<sup>6</sup> Appendix 7

<sup>7</sup> The locations of the canals are shown on Appendix 3

<sup>8</sup> Information concerning the size and configuration of the connecting canals and water levels was obtained from City Engineer John Noble. The TSR for the Permit also notes that water levels within the “pit” are relatively stable.

<sup>9</sup> An examination was conducted of the following recorded deeds (Appendix 8) which lie within Phase III of Central Park: Warranty Deed from American Building, Inc. to Willard H. and Bessie L. Duncan (Deed Book 566, Page 175, August 15, 1956); Warranty Deed from Willard H. and Bessie L. Duncan to James R. and Arlene K. Dills (O.R. Book 80, Page 388, November 28, 1957); and Warranty Deed from James R. and Arlene K. Dills to The City of Ormond Beach (O.R. Book 1881, Page 1686, December, 1976). No reservation of any water rights is contained in these deeds.



## Rights of Property Owners Adjacent to Water Bodies

Under Florida law, the rights (or lack of rights) of property owners adjacent to bodies of water depend upon whether the water is deemed to be “navigable”, whether adjacent property owners own a portion of the bottom lands underlying the water body, and whether the water body is naturally formed or man-made. The differences in these rights are discussed below.

### a. Navigable Waterways

With limited exceptions, the State of Florida holds title to the land beneath the navigable waters located in the state up to mean high water mark in trust for all people in the state.<sup>10</sup> Therefore, all members of the public are entitled to the use of a navigable water body for commerce, navigation, fishing, boating, swimming, etc. Further, property owners directly adjacent to navigable water bodies have riparian rights which entitle them to additional rights, such as the right to access to the water from their riparian land and an unobstructed view over the adjoining water.<sup>11</sup>

Whether a body of water is navigable is determined on a case by case basis. Factors that are considered in determining whether the water body is navigable are whether it is natural and permanent, its size, depth, and location, and the manner and extent of public or private commercial or recreational use.<sup>12</sup> The determination of navigability is made as of 1845, the date Florida became a state.<sup>13</sup> Therefore, only a water body which was navigable in its natural state in 1845 is considered legally to be navigable.<sup>14</sup>

### b. Non-Navigable Water Bodies

#### i) Bottom Lands of Water Body Owned by Single Owner

If all the bottom lands of a non-navigable water body are owned by a single property owner, then property owners adjacent to the water body have no rights with respect to the water body. Rather, the water body and the right to use it are exclusively held by the owner of the bottom lands.<sup>15</sup> In this situation, the owner of the bottom lands is free to make whatever alterations to the water body he deems necessary or desirable.

#### ii) Bottom Lands of Natural Water Bodies Owned by Multiple Owners

When ownership (title) of the bottom lands of a natural water body is vested in more than one person or entity, each property owner owning a portion of the bottom lands is entitled to the reasonable use of the entire water body, including fishing, swimming and boating, so long as they do not interfere with the rights of others to such use.<sup>16</sup>

<sup>10</sup> *Broward v. Mabry*, 50 So. 826 (1909)

<sup>11</sup> *Mickel v. Norton*, 69 So.3d 1081 (Fla. App. 2<sup>nd</sup> Dist., 2011)

<sup>12</sup> *Id*; *Board of Trustees of Internal Imp. Trust Fund v. Florida Public Utilities Company*, 599 So. 2d 1356 (Fla. 1<sup>st</sup> DCA., 1992)

<sup>13</sup> *Board of Trustees of Internal Imp. Trust Fund v. Florida Public Utilities Company*, *supra*, at fn 1; *Odom v. Deltona Corporation*, 341 So.2d 977 (Fla. 1976).

<sup>14</sup> *Picciolo v. Jones*, 534 So.2d 875 (Fla. 3<sup>rd</sup> DCA, 1988), review denied 544 So.2d 200 (Fla., 1989), cert. denied 110 S. Ct. 144 (U.S. Sup. Ct. 1989)

<sup>15</sup> *Osceola County v. Triple E Development*, 90 So.2d 600 (Fla. 1956).

<sup>16</sup> *Duval v. Thomas*, 114 So.2d 791 (Fla. 1959), as interpreted by *Anderson v. Bell*, 443 So.2d 1202 (Fla. 1983).

### iii) Non-Navigable Man-Made Water Bodies

The owners of property adjacent to or beneath a man-made, non-navigable water body are not entitled to the beneficial use of the surface water of the entire water body by sole virtue of fact that they own contiguous lands. The Florida Supreme Court has expressly held that landowners adjacent to man-made, non-navigable water bodies have no riparian or littoral rights.<sup>17</sup> The owner of the bottom lands of a man-made, non-navigable water body can therefore fill portions of it or otherwise make changes or alterations upon his property which affect the adjacent property owners.<sup>18</sup>

### Inherent Power of the City to Protect the Safety and Welfare of its Citizens

The Florida Constitution, as well as Florida law enacted pursuant to it, gives municipalities broad governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services and to exercise any power for municipal purposes, except where expressly prohibited by law.<sup>19</sup> In defining the scope of a “municipal purpose,” Florida courts have long held that it is not only the right, but the duty of public authorities in municipalities to protect the safety, the health and the general welfare of the citizens and that this duty involves sanitary and health regulations.<sup>20</sup>

### Application of Law to Facts

The City’s planned interconnection of the Lakes in Central Park is intended to enhance the recreational use of the Lakes by the public and to control flooding in the area. According to the SJRWMD, the Lakes are shell pits begun in the mid-1950’s. The interconnections have been approved and permitted by the SJRWMD, the agency empowered to control the discharge into and level of water in all canals, lakes and other bodies of water within its jurisdiction.<sup>21</sup>

The interconnections are all to be located on property owned by the City and are not intended to alter the existing water levels of the Lakes. SJRWMD has also determined that the interconnections will not adversely affect the water quality of the Lakes. Indeed, from the material reviewed in preparing this Analysis, no adverse affects to any of the adjacent property owners were noted to result from the interconnections.

The Lakes appear to be non-navigable, man-made water bodies which under Florida law bestow no inherent riparian or littoral rights on adjacent property owners. As such, under Florida law the City would be free to perform acts such as filling all or part of the Lakes or otherwise limiting access to portions of the Lakes by adjacent property owners.<sup>22</sup>

<sup>17</sup> *Anderson v. Bell*, 443 So.2d 1202 (Fla. 1983) (Appendix 9). The Court did state that there are circumstances which could confer rights to adjacent property owners of man-made water bodies, such as a prescriptive easement or where due to the passage of time the water body becomes de facto natural. No Florida cases have been found which rule when a man-made may be considered to become natural by the passage of time and it is assumed for purposes of this analysis that the Lakes in Central Park were and would still be considered to be man-made.

<sup>18</sup> *Publix Super Markets, Inc. v. R.E. Pearson, et al.*, 315 So.2d 98 (Fla. 2d DCA, 1975), cert. denied (330 So.2d 20 (Fla., 1976)

<sup>19</sup> Art. VIII, § 2(b), Fla. Const.; § 166.021, Fla. Stat. (2011).

<sup>20</sup> *Garvin v. Baker*, 59 So.2d 360, 364 (Fla.1952). *Quiles v. City of Boynton Beach*, 802 So.2d 397 (Fla. 4<sup>th</sup> DCA, 2001).

<sup>21</sup> § 373.103 Fla. Stat.

<sup>22</sup> In the *Publix Super Markets, Inc. v. R.E. Pearson, et al.* case cited above (Appendix 10), Publix planned to fill 10 acres of a 47 acre lake formed by phosphate mining. The adjacent property owners claimed that they had the riparian right to access and enjoy the use of the entire surface area of the lake. Even though the adjacent property owners actually owned other portions of the bottom land of the lake, the Court ruled that they had no riparian rights and that Publix as the owner of the land was free to proceed with filling it.

Further, and equally important, even if the adjacent property owners did enjoy riparian or littoral rights or could argue that they had attained rights to the Lakes by means such as a prescriptive easement, no evidence has been presented that the proposed interconnections would interfere with such rights. The proposed interconnections do not limit access to the Lakes but, if anything, enhance it. Simply put, the facts obtained from the materials examined do not indicate that the interconnections would negatively impact any riparian or littoral rights, even if such existed. Accordingly, subject to the assumptions and limitations contained herein, there does not appear to be any cognizable legal right of an adjacent property owner to prevent the City from proceeding with construction of the interconnection of Lakes 1-5 in Central Park.

Very truly yours,

  
J. Steven Garthe

  
John N. Upchurch

JSG and JNU/jsm  
Enclosures





# CITY OF ORMOND BEACH

City Manager • 22 S. Beach Street • Ormond Beach • Florida • 32174 • (386) 676-3200 • Fax (386) 676-3384

## **CITY MANAGER MEMORANDUM**

**To:** The Honorable Mayor Kelley and City Commissioners

**Through:** Joyce A. Shanahan, City Manager

**From:** Ric Goss, Planning Director

**Date:** November 13, 2012

**Subject:** Land Development Code Amendment - Doggie Dining

### **Introduction**

This is proposed amendment to the Land Development Code (LDC) to permit patrons of restaurants to bring their dogs to the premises subject to provisions provided for in the Dixie Cup Clary Local Control Act passed by the Florida Legislature. The Dixie Cup Clary Local Control Act, Florida Statute 509.233 grants the City the authority to provide exemptions from Section 6.501.115, 2001 FDA Food Code, as adopted and incorporated by the Division of Hotels and Restaurants ("Division") in F.A.C. § 61C-4.010(6).

### **Background**

The Dixie Cup Clary Local Control Act (the "Act"), Section 509.233, Florida Statutes was initially enacted in 2006 as a 3-year pilot program authorizing the governing body of a local government the authority to establish by ordinance a local exemption procedure to certain provisions of the Food And Drug Administration Food Code. The Dixie Cup Clary Local Control Act provided a process whereby restaurants could allow their patrons' dogs within certain designated outdoor portions of public food service establishments, if these areas have outside access to the outdoor dining area; meaning the dogs would not be permitted to enter the restaurant to reach an outdoor dining area.

The Act was scheduled to expire July 1, 2009, unless reviewed and saved from repeal by the legislature. In the 2009 legislative session, the Act was amended to remove the 3-year limitation. The prohibition against any animal other than service animals, such as leader dogs for the blind or deaf, inside any restaurant in the state remains firmly in place. Pet dogs are still prohibited inside public food service establishments, including traveling through the establishment.

### **Discussion**

Pet dogs are generally prohibited at public food service establishments; however, the City may enact an ordinance permitting dogs in designated outdoor seating areas of

public food service establishments, at the specific request of the restauratn. The ordinance must include specific requirements established by state law, including permit fees and sanitation and safety conditions that must be met.

Any local ordinances allowing dogs must include the following minimum requirements:

- All food service employees must wash their hands promptly after touching, petting, or otherwise handling dogs.
- Employees cannot touch, pet, or otherwise handle dogs while serving food or beverages or handling tableware or before entering other parts of the establishment.
- Patrons must be advised to wash their hands before eating. The establishment must provide waterless hand sanitizer at each table.
- Dogs shall not come into contact with serving dishes, utensils, tableware, linens, paper products or any other items involved in food service operations.
- Dogs shall be kept on a leash at all times and under reasonable control.
- Dogs shall not be allowed on chairs, tables, or other furnishings.
- Table and chair surfaces and any spillage shall be cleaned and sanitized between seating of patrons.
- Accidents involving dog waste shall be cleaned immediately and the area sanitized with an approved product. Establishments are required to keep a kit containing cleaning materials in the designated outdoor area.
- Signage reminding employees and patrons of adopted rules must be posted as required by local ordinance.
- Dogs are not permitted to travel through any indoor or non-designated outdoor portions of the establishment. Ingress and egress to the designated, permitted, area cannot require entrance into or passage through any indoor area of the establishment.

Local governments may adopt additional requirements that must be met to obtain a permit.

The City has received several letters from Mr. Patrick Daughtery who has a specific interest in the City of Ormond Beach passing similar legislation. As staff understands, Flagler Beach and Daytona Beach have passed or have considered similar legislation.

A draft ordinance has been prepared in compliance with the Act for City Commission discussion at the work session. Neighborhood Improvement Division (NID) will be present to answer any questions regarding concerns and enforcement of this ordinance. The ordinance has been drafted taking into consideration NID review and comments.

### **Budget Impact**

None.

**Recommendation**

Staff is requesting direction from the Commission on this matter.

**Attachments:**

- Draft Doggie Dining ORD (PDF)
- Attachment A (PDF)

**REVIEWED BY:**

  
Kelly McGuire, Finance Director 11/8/2012

  
Theodore MacLeod, Assistant City Manager 11/8/2012

**APPROVED BY:**

  
Joyce Shanahan, City Manager 11/8/2012

## ORDINANCE NO. 2012-XXXX

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA, AMENDING THE CITY LAND DEVELOPMENT CODE; CHAPTER 2 - DISTRICT AND GENERAL REGULATIONS, ARTICLE IV - CONDITIONAL AND SPECIAL EXCEPTION REGULATION; MORE PARTICULARLY SECTION 2-57 R RESTAURANT, TYPE A, TYPE B, TYPE C AND TYPE D BY ADDING A FS 509.233 DOG DINING EXEMPTION FOR RESTAURANTS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEPARABILITY; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Florida Statutes §509.233, authorizes local governments to enact an ordinance and issue a permit to restaurants to allow dogs in outdoor dining areas in accordance with the terms and conditions as set forth in order to avoid risk of citation and penalty from the Florida Division of Hotels and Restaurants; and

**BE IT ENACTED BY THE PEOPLE OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:**

**SECTION ONE.** Section 2-57 R 5. Restaurant, Type A, Type B, Type C, and Type D, of Chapter 2, District and General Regulations, of Article IV, Conditional and Special Exception Regulations of the City Land Development Code is hereby deleted in its entirety as follows:

**~~5. RESTAURANT, TYPE "A"~~**

- ~~1. Screening and buffering in excess of that required under Chapter 3, Article 1 may be required in order to minimize impact on nearby residential uses to the maximum extent feasible, particularly with regard to noise, odor, fumes and glare impacts.~~
- ~~2. Hours of operation may be restricted if located adjacent to a conforming residential use or a residential district.~~
- ~~3. A full menu must be available at all times during which alcohol is consumed.~~



~~4. If inside entertainment is provided, there shall be no additional charge for admission and hours of operation may be limited. All entertainment will be contained inside, unless granted approval through Public Hearing.~~

~~5. Outdoor seating is permitted and shall be reviewed by the SPRC.~~

#### **6. RESTAURANT, TYPE "B"**

~~1. Screening and buffering in excess of that required under Chapter 3, Article 1 may be required in order to minimize impact on nearby residential uses to the maximum extent feasible, particularly with regard to noise, odor, fumes and glare impacts.~~

~~2. Hours of operation may be restricted if located adjacent to a conforming residential use or a residential district.~~

~~3. Type "B" establishments are permitted to offer beer and wine only.~~

~~4. If inside entertainment is provided, there shall be no additional charge for admission, and hours of operation may be limited. All entertainment will be contained inside unless granted approval through Public Hearing.~~

~~5. Outdoor seating is permitted and shall be reviewed by the SPRC.~~

#### **7. RESTAURANT, TYPE "C"**

~~1. Screening and buffering in excess of that required under Chapter 3, Article 1 may be required in order to minimize impact on nearby residential uses to the maximum extent feasible, particularly with regard to noise, odor, fumes and glare impacts.~~

~~2. Hours of operation may be restricted if located adjacent to a conforming residential use or a residential district.~~

~~3. Outdoor seating is permitted and shall be review by the SPRC.~~

~~4. Type "C" establishments are permitted to offer beer and wine only.~~

#### **8. RESTAURANT, TYPE "D"**

~~1. Screening and buffering in excess of that required under Chapter 3, Article 1 may be required in order to minimize impact on nearby residential uses to the maximum extent feasible, particularly with regard to noise, odor, fumes and glare impacts.~~

~~2. Hours of operation may be restricted if located adjacent to a conforming residential use or aresidential district.~~

- ~~3. The restaurant shall have a minimum of 4000 total square feet, to include exterior dining area.~~
- ~~4. A minimum of 100 seats is required.~~
- ~~5. Shall be located within the Downtown Community Redevelopment Area.~~
- ~~6. Only a 4COP alcohol license is permitted.~~
- ~~7. The kitchen shall remain open to service and a full menu shall be available at all times during which alcohol is consumed.~~
- ~~8. A minimum of 25% gross revenue must be derived from the sale of food and nonalcoholic beverages. The restaurant shall provide the City Planning Director documentation by September 15th of each year that a minimum of 25% of their gross revenue is derived from the sale of food and nonalcoholic beverages. If the documentation is not submitted or shows less than 25% of their gross revenue is derived from the sale of food and nonalcoholic beverages, the restaurant shall be denied a Business Tax Receipt for a type "D" restaurant for the next year.~~
- ~~9. If inside entertainment is provided, there shall be no additional charge for admission, and hours of operation may be limited. All entertainment will be contained inside unless granted approval through Public Hearing.~~
- ~~10. Outdoor seating is permitted and shall be reviewed by the SPRC.~~

**SECTION TWO.** Section 2-57 R of Chapter 2, District and General Regulations, of Article IV, Conditional and Special Exception Regulations of the City Land Development Code is hereby amended to read as follows:

## **5. RESTAURANT TYPES**

1. The following criteria by restaurant type apply as denoted in the table below:

<u>CRITERIA</u>	<u>RESTAURANT TYPES</u>			
	<u>TYPE A</u>	<u>TYPE B</u>	<u>TYPE C</u>	<u>TYPE D</u>
<u>1. Screening and buffering in excess of that required under Chapter 3, Article 1 may be required in order to minimize impact on nearby residential uses to the maximum extent feasible, particularly with regard to noise, odor, fumes and glare impacts.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>2. Hours of operation may be restricted if located adjacent to a conforming residential use or a residential district.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>3. A full menu must be available at all times during which alcohol is consumed.</u>	<u>X</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>4. If inside entertainment is provided, there shall be no additional charge for admission and hours of operation may be limited. All entertainment will be contained inside, unless granted approval through Public Hearing.</u>	<u>X</u>	<u>X</u>	<u>0</u>	<u>0</u>
<u>5. Beer and Wine is permitted.</u>	<u>0</u>	<u>X</u>	<u>X</u>	
<u>6. Restaurant shall have a minimum of 4000 total square feet, to include exterior dining area.</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>X</u>
<u>7. A minimum of 100 seats is required.</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>X</u>
<u>8. Shall be located in the Downtown Community Redevelopment Area.</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>X</u>
<u>9. Only a 4COP alcohol license is permitted.</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>X</u>
<u>10. The kitchen shall remain open to service and a full menu shall be available at all times during which alcohol is consumed.</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>X</u>
<u>11. A minimum of 25% gross revenue must be derived from the sale of food and nonalcoholic beverages. The restaurant shall provide the City Planning Director documentations by September 15th of each year that a minimum of 25% of their gross revenue is derived from the sale of food and nonalcoholic beverages. If the documentation is not submitted or shows less than 25% of their gross revenue is derived from the sale of food and nonalcoholic beverages, the restaurant shall be denied a Business Tax Receipt for a Type D restaurant for the next year.</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>X</u>
<u>12. Outdoor Seating is permitted and shall be reviewed by the SPRC.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>13. Where outdoor seating is provided, doggie dining exemption is permitted subject to additional criteria and separate permit.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>X Denotes applicable to restaurant type; 0 Denotes not applicable to restaurant type</u>				

2. Each restaurant type which has outdoor seating may be granted a separate permit to allow an exemption to the Food and Drug Administration Code provisions which prohibit dogs on restaurant

premises. The permitted exemption would permit patrons' dogs within certain designated outdoor portions of restaurants provided the following criteria is met:

a. No dog shall be in a restaurant unless allowed by state law and the restaurant has received and maintains an unexpired permit pursuant to this sub-subsection allowing dogs in designated outdoor areas of the establishment.

b. Restaurants must apply for and receive a permit from the City of Ormond Beach before patrons' dogs are allowed on the premises. The City Commission shall adopt a reasonable fee by resolution to cover the cost of processing the initial application, permitting, inspections, renewals, and enforcement.

c. The application for a permit shall require the following information:

1. Name, location, mailing address and Division-issued license number of the restaurant.

2. Title, name, mailing address, and telephone contact information of the permit applicant. Applications are accepted from only the owner of the restaurant or the owner's authorized agent, which authorization must be in writing and notarized. The name, mailing address, and telephone contact information of the owner of the restaurant shall be provided if the owner is not the permit applicant.

3. A diagram and description of the outdoor area which is requested to be designated as available to patrons' dogs, including dimensions of the designated area; a depiction of the number and placement of tables, chairs, and restaurant equipment, if any; the entryways and exits to the designated outdoor area; the boundaries of the designated area and of the other outdoor dining areas not available for patrons' dogs; any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways.



4. The diagram shall be accurate and to scale but need not be prepared by a licensed design professional. A copy of the approved diagram shall be attached to the permit.

5. Days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area of the restaurant.

d. Restaurants that receive a permit to allow dogs in a designated outdoor area pursuant to this subsection shall require that:

1. Employees wash their hands promptly after touching, petting, or otherwise handling any dog.

2. Employees be prohibited from touching, petting, or otherwise handling any dog while serving food or beverages or handling tableware or before entering other parts of the Restaurant.

3. Patrons in a designated outdoor area be advised by appropriate signage, at conspicuous locations, that they should wash their hands before eating and waterless hand sanitizer be provided at all tables in the designated outdoor area.

4. Patrons keep their dogs under control and on a leash at all times.

5. Employees and patrons not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved with food service operations.

6. Employees and patrons not allow any part of a dog to be on chairs, tables, or other furnishings.

7. Employees clean and sanitize all table and chair surfaces with an approved product between seating of patrons.

8. Employees remove all dropped food and spilled drink from the floor or ground as soon as possible but in no event less frequently than between seating of patrons at the nearest table.
9. Employees and patrons remove all dog waste immediately and the floor or ground be immediately cleaned and sanitized with an approved product. Employees shall keep a kit with the appropriate materials for this purpose near the designated outdoor area.
10. Employees and patrons not permit dogs to be in, or to travel through, indoor or non-designated outdoor portions of the restaurant.
11. At all times while the designated outdoor portion of the restaurant is available to patrons and their dogs, at least one sign be posted in a conspicuous and public location near the entrance to the designated outdoor portion of the restaurant, notifying patrons that the designated outdoor portion of the restaurant is currently available to patrons accompanied by their dog or dogs. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8 1/2 x 11) and printed in easily legible typeface of not less than twenty (20) point font size. Such signs shall be exempt from the sign regulations of the Land Development Code
12. At least one sign reminding patrons of the applicable rules, including those contained in this part, and any permit conditions, which may be imposed by the City, be posted in a conspicuous location within the designated outdoor portion of the restaurant. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8 1/2 x 11) and printed in easily legible typeface of not less than twenty (20) point font size. Such sign shall be exempt from the sign regulations of the Land Development Code.
13. At least one sign reminding employees of the applicable rules, including those contained in this part, and any permit conditions, which may be imposed by the City, be posted in a conspicuous location frequented by employees within

the restaurant. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8 1/2 x 11) and printed in easily legible typeface of not less than twenty (20) point font size.

14. Ingress and egress to the designated outdoor area not require entrance into or passage through any indoor area or non-designated outdoor portions of the restaurant.

15. The restaurant and designated outdoor area comply with all permit conditions and the approved diagram.

16. Employees and patrons not allow any dog to be in the designated outdoor areas of the restaurant if the restaurant is in violation of any of the requirements of this subsection

17. Permits be conspicuously displayed in the designated outdoor area.

18. A permit issued pursuant to this sub-subsection shall expire automatically upon the sale of the restaurant and cannot be transferred to a subsequent owner. The subsequent owner may apply for a permit pursuant to this subsection if the subsequent owner wishes to continue to allow patrons' dogs in a designated outdoor area of the restaurant. Permits shall expire on September 30th of each year.

#### e. Administration.

1. It shall be the responsibility of the City to provide the Division of Hotels and Restaurants of the Department of Business and Profession Regulations a copy of all applications and permits issued.

2. The Planning Department shall provide the Neighborhood Improvement Division (NID) with a copy of all approved applications and permits issued.

3. All applications, permits, and other related materials shall contain the Planning Department's issued permit number for the Restaurant.



f. Enforcement and Penalties

1. Complaints shall be processed in accordance with Article VII Code Enforcement.

2. It shall be unlawful to fail to comply with any of the requirements of this subsection. Each instance of a dog on the premises of a restaurant that does not have a valid permit authorizing dogs at the restaurant is a separate violation. Each violation of a permit condition shall also be deemed a separate violation.

3. A permit may be revoked if, after notice and reasonable time in which the grounds for revocation may be corrected as specified in the notice, the Restaurant fails to comply with any condition of the permit, fails to comply with the approved diagram, fails to maintain any required state or local license, or is found to be in violation of any provision of this sub-subsection. If the ground for revocation is a failure to maintain any required state or local license, the revocation may take effect immediately upon giving notice of revocation to the permit holder.

4. If a restaurant's permit for allowing dogs is revoked, no new permit may be approved until the expiration of 180 days following the date of revocation.

5. Any restaurant that fails to comply with the requirements of this subsection shall be guilty of a Class III violation and shall be subject to any and all enforcement proceedings consistent with the City Code of Ordinances and general law.

**SECTION THREE.** Section 2-57 R of Chapter 2, District and General Regulations, of Article IV, Conditional and Special Exception Regulations of the City Land Development Code is hereby amended to read numerically as follows:

**9 6 RETAIL SALES AND SERVICE, DAILY NEEDS**

**10 7 RETAIL SALES AND SERVICE , SHOWROOM**

**11-8 RETAIL SALES AND SERVICE, SPECIALTY**

**SECTION FOUR.** Fees may be set by ordinance to ensure compliance with this ordinance.

**SECTION FIVE.** This ordinance in no manner assumes responsibility, obligation, or liability for any functions of the Florida Division of Hotel and Restaurants for the proper operations of such businesses as established by State and Federal laws.

**SECTION SIX.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION SEVEN.** In the event any word, phrase, clause, sentence, paragraph, term, or provision of this Ordinance shall be held to be invalid by a court of competent jurisdiction, such judicial determination shall not affect any other word, clause, phrase, sentence, paragraph, term or provision, of this Ordinance, and the remainder of this Ordinance shall remain in full force and effect.

**SECTION NINE.** This Ordinance shall take effect immediately upon its adoption.

**PASSED UPON** at the first reading of the City Commission, this \_\_\_\_ day of \_\_\_\_\_, 2012.

**PASSED UPON** at the second and final reading of the City Commission, this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
**ED KELLY**  
 Mayor

**ATTEST:**

\_\_\_\_\_  
**JOSHUA FREUCHT**  
 City Clerk



PATRICK DAUGHERTY  
30 Dix Avenue  
Ormond Beach, Florida 32174

March 14, 2012

The Honorable Mayor Ed Kelley  
22 South Beach Street  
Ormond Beach, Florida 32174

Dear Mayor Kelley,

Former Governor Jeb Bush signed into law in 2006 a bill that allows local governments to issue permits to restaurants interested in allowing pets to accompany their guardians in outdoor dining areas. It was considered to be a pilot program until 2009 when it became permanent. Enclosed please find a copy of the Florida Statute # 509-233 for your information and review. The state minimum requirements for a local ordinance appear to be both straightforward and sensible. Also enclosed is a copy of a recently adopted ordinance that I feel can serve as a model for this effort.

In light of this, I would like to formally and respectfully request that the City of Ormond Beach begin the process necessary to issue permits to restaurants in our city which wish to participate in what is referred to as "doggie dining".

As with any measure, detractors may come forward with opposing arguments. However, I see this as a win-win proposition in our community for the following reasons.

1. Participating restaurants will enjoy a cost effective revenue generating opportunity. Such opportunities in business are not available very often.
2. Dog lovers will be pleased to frequently patronize a business where their pets will be welcome and sensibly accommodated. The responsibility for proper pet sanitation and behavior (including being on a lease at all times) will be well known to the pet owner in advance, and a rule violation would risk loss of this privilege that has been provided as a courtesy of the establishment.
3. Patrons without dogs can be assured that permitted restaurants will have strict and specific guidelines for cleanliness and sanitation. To anyone concerned about disease control, a noted pet health expert, K. C. Nayfield, doctor of veterinary medicine at the Midway Animal Hospital in Homosassa Florida, has stated that "doggie dining" does not pose a health threat as some would think.

According to Dr. Hayfield, "most bacteria is unique to a species" and thus a restaurant patron is far more likely to contract an illness from a fellow human (food preparer, server, or other patron), than from a dog.

4. There is no requirement for restaurants to participate. It is entirely their option, and in fact in fact only some restaurants would have an outdoor dinning area that would meet the minimum criteria as required in the state statute.
5. Participating restaurants should enjoy increased revenue, which in turn may benefit neighboring businesses and ultimately the city as a whole.

Attached is a list of 42 Florida cities that have adopted ordinances in accordance with Fla. Statute 509 233, and it is my understanding that numerous others have begun the adoption process. Please note that most municipalities have viewed this as a public courtesy and chosen to allow restaurants to make their permit applications free of charge, or with a minimal one time administrative charge. Others appear to have seen this as a revenue source and decided to impose a tax like burden on the food service establishment. The hope here is, of course, that Ormond Beach adopts the former attitude. A search of the internet websites of various cities will yield numerous examples of adopted dog dining ordinances.

As a lifetime resident of Ormond Beach, and former member of the Ormond Beach Beautification Board, I have always felt privileged to live in this city. I would like to see our city join dozens of other Florida cities in this effort of good public relations. Thank you for your consideration and should you wish to speak with me regarding this matter, I can be reached at 672 7138.

Sincerely

Patrick Daugherty

CC: Commissioners, Stowers, Boehm, Kent, Partington, City manager Shanahan



## FLORIDA Cities and Counties with “DOG DINING”

Atlantic Beach	Bradenton
Cape Coral	Clearwater
Clearwater Beach	Cocoa
Cocoa Beach	Crystal River
Destin	Dunedin
Eustis	Flagler Beach
Fort Walton Beach	Harmony
Indian River Rocks	Jacksonville
Jacksonville Beach	Manatee County
Marco Island	Martin County
Melbourne	Melbourne Beach
Miami	Miami Beach
Mount Dora	Neptune Beach
North Redington Beach	Okaloosa County
Palm Beach Gardens	Panama City Beach
Panama City	Punta Gorda
Sarasota	Sarasota County
St. Augustine	St Augustine Beach
St. Petersburg	Stuart
Tampa	Tavares
Vero Beach	

# The Florida Senate

## 2011 Florida Statutes

<p><u>TITLE XXXIII</u> REGULATION OF TRADE, COMMERCE, INVESTMENTS, AND SOLICITATIONS</p>	<p><u>CHAPTER 509</u> LODGING AND FOOD SERVICE ESTABLISHMENTS; MEMBERSHIP CAMPGROUNDS</p>	<p><u>VIEW ENTIRE CHAPTER</u></p>
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**509.233 Public food service establishment requirements; local exemption for dogs in designated outdoor portions. —**

(1) **LOCAL EXEMPTION AUTHORIZED.**—Notwithstanding s. 509.032(7), the governing body of a local government may establish, by ordinance, a local exemption procedure to certain provisions of the Food and Drug Administration Food Code, as currently adopted by the division, in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments.

(2) **LOCAL DISCRETION; CODIFICATION.**—

(a) The adoption of the local exemption procedure shall be at the sole discretion of the governing body of a participating local government. Nothing in this section shall be construed to require or compel a local governing body to adopt an ordinance pursuant to this section.

(b) Any ordinance adopted pursuant to this section shall provide for codification within the land development code of a participating local government.

(3) **LIMITATIONS ON EXEMPTION; PERMIT REQUIREMENTS.**—

(a) Any local exemption procedure adopted pursuant to this section shall only provide a variance to those portions of the currently adopted Food and Drug Administration Food Code in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments.

(b) In order to protect the health, safety, and general welfare of the public, the local exemption procedure shall require participating public food service establishments to apply for and receive a permit from the governing body of

the local government before allowing patrons' dogs on their premises. The local government shall require from the applicant such information as the local government deems reasonably necessary to enforce the provisions of this section, but shall require, at a minimum, the following information:

1. The name, location, and mailing address of the public food service establishment.

2. The name, mailing address, and telephone contact information of the permit applicant.

3. A diagram and description of the outdoor area to be designated as available to patrons' dogs, including dimensions of the designated area; a depiction of the number and placement of tables, chairs, and restaurant equipment, if any; the entryways and exits to the designated outdoor area; the boundaries of the designated area and of other areas of outdoor dining not available for patrons' dogs; any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways; and such other information reasonably required by the permitting authority. The diagram or plan shall be accurate and to scale but need not be prepared by a licensed design professional.

4. A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area.

(c) In order to protect the health, safety, and general welfare of the public, the local exemption ordinance shall include such regulations and limitations as deemed necessary by the participating local government and shall include, but not be limited to, the following requirements:

1. All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling dogs. Employees shall be prohibited from touching, petting, or otherwise handling dogs while serving food or beverages or handling tableware or before entering other parts of the public food service establishment.

2. Patrons in a designated outdoor area shall be advised that they should wash their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.



3. Employees and patrons shall be instructed that they shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations.

4. Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.

5. Dogs shall not be allowed on chairs, tables, or other furnishings.

6. All table and chair surfaces shall be cleaned and sanitized with an approved product between seating of patrons. Spilled food and drink shall be removed from the floor or ground between seating of patrons.

7. Accidents involving dog waste shall be cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.

8. A sign or signs reminding employees of the applicable rules shall be posted on premises in a manner and place as determined by the local permitting authority.

9. A sign or signs reminding patrons of the applicable rules shall be posted on premises in a manner and place as determined by the local permitting authority.

10. A sign or signs shall be posted in a manner and place as determined by the local permitting authority that places the public on notice that the designated outdoor area is available for the use of patrons and patrons' dogs.

11. Dogs shall not be permitted to travel through indoor or nondesignated outdoor portions of the public food service establishment, and ingress and egress to the designated outdoor portions of the public food service establishment must not require entrance into or passage through any indoor area of the food establishment.

(d) A permit issued pursuant to this section shall not be transferred to a subsequent owner upon the sale of a public food service establishment but shall expire automatically upon the sale of the establishment. The subsequent owner shall be required to reapply for a permit pursuant to this section if the subsequent owner wishes to continue to accommodate patrons' dogs.

(4) POWERS; ENFORCEMENT.—Participating local governments shall

have such powers as are reasonably necessary to regulate and enforce the provisions of this section.

(5) **STATE AND LOCAL COOPERATION.**—The division shall provide reasonable assistance to participating local governments in the development of enforcement procedures and regulations, and participating local governments shall monitor permitholders for compliance in cooperation with the division. At a minimum, participating local governments shall establish a procedure to accept, document, and respond to complaints and to timely report to the division all such complaints and the participating local governments' enforcement responses to such complaints. A participating local government shall provide the division with a copy of all approved applications and permits issued, and the participating local government shall require that all applications, permits, and other related materials contain the appropriate division-issued license number for each public food service establishment.

**History.**—s. 3, ch. 2006-72; s. 127, ch. 2007-5; s. 46, ch. 2009-195.

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes.  
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We the undersigned are patrons of restaurants in Ormond Beach Florida who wish to express our intention to support the proposal made by Mr. Patrick Daugherty's letter to Mayor Kelley. We wish to encourage the city counsel Ormond Beach to adopt an ordinance in accordance with Florida State statute 509-233 permitting "dog dining" at restaurants with proper outdoor areas.

Name

Signature

Address (optional)



RECEIVED

APR 11 2012  
CITY MANAGERS OFFICE

**PATRICK DAUGHERTY**  
30 Dix Avenue  
Ormond Beach, Florida 32174

April 5, 2012

**The Honorable Mayor Ed Kelley**  
22 South Beach Street  
Ormond Beach, Florida 32174

Dear Mayor Kelley,

Enclosed please find three additional pages of signatures of residents who are interested in supporting the "dog dining" ordinance as proposed in my March 14<sup>th</sup> letter. Please consider these pages (4,5, and 6) to be attachments to the previous missive. I would also like you to know that these six pages, with a total of 105 signatures, were collected with minimal effort from just two area restaurants. There is little doubt that if an all out petition effort were necessary, it would not be difficult to collect significantly more names of Ormond Beach residents who would be in support of this effort. The first signature on page #5 is that of Don Burke who is a co-owner of "Mango Sun" on Granada Avenue. There is also one signature believed to be that of Fred Costello's wife Linda.

I would like very much to speak with you in order to gain an understanding of the process involved in passing such an ordinance, also an approximation of the time required, and to learn your personal thoughts on the matter.

I can be reached most days at our home phone which is 672- 7138. Thank you again for your attention to this request.

Sincerely

*Patrick Daugherty*  
Patrick Daugherty

CC: Commissioners, Stowers, Boehm, Kent, Partington, City manager Shanahan, Don Burke

We the undersigned are patrons of restaurants in Ormond Beach Florida who wish to express our intention to support the proposal made by Mr. Patrick Daugherty's letter to Mayor Kelley. We wish to encourage the city counsel Ormond Beach to adopt an ordinance in accordance with Florida State statute 509-233 permitting "dog dining" at restaurants with proper outdoor areas.

Name	Signature	Address (optional)	
Antonette Story	ANTONETTE STORY	202B MAGNOLIA A	1. F
Charlene Watts	CHARLENE WATTS	1066 AZALEA FAN	0. F
Charles D. Watts	Charles D. Watts	"	
Ma Sledge	Ma Sledge	940 Village Trail	300
Joan Sledge	Joan Sledge	5125 WARD LAKE DR	71
Jim B. Sledge	Jim B. Sledge	1413 PERCHER	14
Paul Beal	Paul Beal		
Robert Lasris	Robert Lasris	2 Pinsettiana La.	
Tina Lusscas	Tina Lusscas	1338 EUGENE BLAK	
Regina Fehlich	Regina Fehlich	"	
Ashley Stephens	Ashley Stephens	180 Acklins Cir	#21
Erin Yeager	Erin Yeager	180 Acklins Cir	25
Andrea Cananough	Andrea Cananough	906 New Coast	5
Carol Ann Lee	Carol Ann Lee	7444 S. BUCKLE	
Candace Candage	Candace Candage	1212 Parkside	
Marci H. Garrett	Marci H. Garrett	55058 Van Sq	DD
Accomando	Accomando	4024 Calusa	B
James Pine	James Pine	5024 Calusa Ln	14
James Pine	James Pine	4 Cobblestone	
Theresa Chipp	Theresa Chipp	4 Cobblestone T	

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Name	Signature	Address (optional)
Don Burke	<i>Don Burke</i>	1715 Goosecreek rd. P.O. FL.
Tiffany Nelson	<i>Tiffany Nelson</i>	15716 Megan Bay Cir Apt 111
MATTHEW BALDRIDGE	<i>Matthew Baldridge</i>	15716 Megan Bay Cir Apt 111
Anne Linofre	<i>Anne Linofre</i>	3614 Malla Dr. OB
Ann Evans	<i>Ann Evans</i>	401 Connecticut Ave. Flagler B
RAY SAVIDGE	<i>Ray Savidge</i>	5425 Ward LK Dr. P.O. FL 3216
Dianna Cullum	<i>Dianna Cullum</i>	33 Silk Oak Dr. OB FL 3216
Kathy Stegers	<i>Kathy Stegers</i>	5937 Kesdrew Dr. OB FL 3216
Maureen Tomblin	<i>Maureen Tomblin</i>	406 N. Halifax Dr. OB FL 3216
Angela Wenzel	<i>Angela Wenzel</i>	10600 W Granada Blvd
Carol Mahlkott	<i>Carol Mahlkott</i>	4 Pine Look Pass
Dee Renney	<i>Dee Renney</i>	12816 John Anderson Dr. OB 3216
JAMES BAHR	<i>James Bahr</i>	126 PINEWOOD AVE OB 3216
RUTH BAHR	<i>Ruth Bahr</i>	126 DRIEWOOD AVE, 32176
Ronny Szosak	<i>Ronny Szosak</i>	24 SCATEMAGE Pine Point
Oliver Harkins	<i>Oliver Harkins</i>	155 W. Ridgewood Ave. OB 3216
Stacy Miller	<i>Stacy Miller</i>	11 Fishermans Cir Apt 5 OB 3216
Shawn Schaper	<i>Shawn Schaper</i>	911 Hammock Cr.
Raymond Sura	<i>Raymond Sura</i>	7 ANDERSON WAY Palm Coast
Carla Marie Proulx	<i>Carla Marie Proulx</i>	Palm Coast FL

Name	Signature	Address (optional)
Weiling Chen	<i>[Signature]</i>	
Edward Frohlich Jr	<i>[Signature]</i>	11
Cheryl Moore	<i>[Signature]</i>	
Keith Moore	<i>[Signature]</i>	
Linda Castello	<i>[Signature]</i>	
Terri Schending	<i>[Signature]</i>	Springwood Sq
Roy & Patrice Stoves	<i>[Signature]</i>	459 John Anderson

**Attachment: Attachment**

RECEIVED

MAR 20 2012  
CITY MANAGERS OFFICEPATRICK DAUGHERTY  
30 Dix Avenue  
Ormond Beach, Florida 32174

March 14, 2012

The Honorable Mayor Ed Kelley  
22 South Beach Street  
Ormond Beach, Florida 32174

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3. Patrons without dogs can be assured that permitted restaurants will have strict and specific guidelines for cleanliness and sanitation. To anyone concerned about disease control, a noted pet health expert, K. C. Nayfield, doctor of veterinary medicine at the Midway Animal Hospital in Homosassa Florida, has stated that "doggie dining" does not pose a health threat as some would think.

doggie dining

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Name	Signature	Address (optional)
Paul C Young	<i>Paul C Young</i>	168 Deer Lake Circle O.B. 32174
Mary Jane Facciponti	<i>Mary Jane Facciponti</i>	47 Oakmont Circle Ormond Beach 32174
John Sorenson	<i>John Sorenson</i>	47 Oakmont Circle Ormond Beach 32174
Robert Sorenson	<i>Robert Sorenson</i>	47 Oakmont Circle Ormond Beach 32174
Cathy Miller	<i>Cathy Miller</i>	84 Green Forest OB 32174
Rick Brown	<i>Rick Brown</i>	160 Tuscan Bend St. D.A. 32117
Booth Collins	<i>Booth Collins</i>	101 Clyde Moore Blvd. O.B. 32117
Patty Cherry	<i>Patty Cherry</i>	1018 Whipawill Dr. Port Orange
Pat Cherry	<i>Pat Cherry</i>	1018 Whipawill Dr. Port Orange
Joan Belth	<i>Joan Belth</i>	4364 Glen Can Cleveland Ln. P.F.
Charles Facciponti	<i>Charles Facciponti</i>	103 Grumpy Path. O.B.
Ed A	<i>Ed A</i>	4010 Oak Creek OB 32174
J. Facciponti	<i>J. Facciponti</i>	4 Old Creek Cir. 32174
Marcy Jo Allen	<i>Marcy Jo Allen</i>	3 Old Creek Cir 32174
Tony Allen	<i>Tony Allen</i>	3 Old Creek Cir 32174
Linda Stewart	<i>Linda Stewart</i>	126 Brandy Hills Dr. Port Orange
Sam West	<i>Sam West</i>	212 Woodland Ave OB 32174
Ryan West	<i>Ryan West</i>	212 Woodland Ave OB 32174
Lori Crawford	<i>Lori Crawford</i>	1 Lakewood Park dr OB 32174
Lisa Deets	<i>Lisa Deets</i>	1606 San Jose H# 32117

According to Dr. Hayfield, "most bacteria is unique to a species" and thus a restaurant patron is far more likely to contract an illness from a fellow human (food preparer, server, or other patron), than from a dog.

4. There is no requirement for restaurants to participate. It is entirely their option, and in fact only some restaurants would have an outdoor dining area that would meet the minimum criteria as required in the state statute.
5. Participating restaurants should enjoy increased revenue, which in turn may benefit neighboring businesses and ultimately the city as a whole.

Attached is a list of 42 Florida cities that have adopted ordinances in accordance with Fla. Statute 509 233, and it is my understanding that numerous others have begun the adoption process. Please note that most municipalities have viewed this as a public courtesy and chosen to allow restaurants to make their permit applications free of charge, or with a minimal one time administrative charge. Others appear to have seen this as a revenue source and decided to impose a tax like burden on the food service establishment. The hope here is, of course, that Ormond Beach adopts the former attitude. A search of the internet websites of various cities will yield numerous examples of adopted dog dining ordinances.

As a lifetime resident of Ormond Beach, and former member of the Ormond Beach Beautification Board, I have always felt privileged to live in this city. I would like to see our city join dozens of other Florida cities in this effort of good public relations. Thank you for your consideration and should you wish to speak with me regarding this matter, I can be reached at 672 7138.

Sincerely

*Patrick Daugherty*  
Patrick Daugherty

CC: Commissioners, Stowers, Boehm, Kent, Partington, City manager Shanahan

We the undersigned are patrons of restaurants in Ormond Beach Florida who wish to express our intention to support the proposal made by Mr. Patrick Daugherty's letter to Mayor Kelley. We wish to encourage the city counsel Ormond Beach to adopt an ordinance in accordance with Florida State statute 509-233 permitting "dog dining" at restaurants with proper outdoor areas.

Name	Signature	Address (optional)
Ed Van Housen	<i>Ed Van Housen</i>	1525 HARMONY AVE O.
Frankie Toca	<i>Frankie Toca</i>	Palmcrest, FL
Deborah Sims	<i>Deborah Sims</i>	DeBary, FL
Sharon Robertson	<i>Sharon Robertson</i>	Ormond 7
Laurenna Bennett	<i>Laurenna Bennett</i>	71 Rogers Park Drive
Joan Mae	<i>Joan Mae</i>	10 Postman Blvd, Pal
JOHN FANCA	<i>John Fanca</i>	10 Postman Ln. Pal
John Kozak	<i>John Kozak</i>	106 Red Sho-e T
VINCENT ZILKA	<i>Vincent Zilka</i>	30 Arabian Herod
GERALD F. STARS	<i>Gerald F. Stars</i>	200 S. P. R. Rd.
Chico Johnson	<i>Chico Johnson</i>	30 Sandpiper Ln
Ferry Ellis	<i>Ferry Ellis</i>	3581 Red Bank
Kurt Hupfer	<i>Kurt Hupfer</i>	105 Riverside Dr., OB.
Robert D. Chavarro	<i>Robert D. Chavarro</i>	232 S. Yonge St. O.
MATTHEW P. CAVARETTA	<i>Matthew P. Cavaretta</i>	30 SPANISH MEADOWS DR C
LORRANA HARRISON	<i>Lorrana Harrison</i>	6 Ethel Dr.
Rat Wilson	<i>Rat Wilson</i>	143 Sanchez Ave
Michelle Rich	<i>Michelle Rich</i>	111 Jester St H. T.
Jack C. WOOD	<i>Jack C. Wood</i>	838 CORDOVA AVE. OB. 32174
Denise McLean	<i>Denise McLean</i>	
LORI CUSHING	<i>Lori Cushing</i>	
Beverly Starnard	<i>Beverly Starnard</i>	

We the undersigned are patrons of restaurants in Ormond Beach Florida who wish to express our intention to support the proposal made by Mr. Patrick Daugherty's letter to Mayor Kelley. We wish to encourage the city council Ormond Beach to adopt an ordinance in accordance with Florida State statute 509-233 permitting "dog dining" at restaurants with proper outdoor areas.

Name	Signature	Address (optional)
Simone Weiss	<i>[Signature]</i>	114 S. Nova Rd. O.B.
Albert T. Knight	<i>[Signature]</i>	40 Foxfield Loop O.B.
C. H. Knight	<i>[Signature]</i>	61 S. STANTREWS.
Ray Evans	<i>[Signature]</i>	61 S. STANTREWS. ST.
Carolyn Courtney	<i>[Signature]</i>	458 Cullen Ave. O.B.
John P. Carey	<i>[Signature]</i>	3 Box Elder Ct. O.B.
Paul Bernis	<i>[Signature]</i>	415 Main Trail O.B.
R. McMiller	<i>[Signature]</i>	1000 Welch St. H. H.
W. J. Dwyer	<i>[Signature]</i>	102 Shady Branch Tr. O.B.
W. J. Dwyer	<i>[Signature]</i>	O.B.
W. J. Dwyer	<i>[Signature]</i>	1690 Birmingham Ave. H. H.
W. J. Dwyer	<i>[Signature]</i>	226 N. NOVA RD #306
W. J. Dwyer	<i>[Signature]</i>	222 Petunias Dr. O.B.
W. J. Dwyer	<i>[Signature]</i>	85 H. H. West Dr. O.B.
W. J. Dwyer	<i>[Signature]</i>	124 Deer Run Dr. O.B.

## FLORIDA Cities and Counties with "DOG DINING"

Atlantic Beach	Bradenton
Cape Coral	Clearwater
Clearwater Beach	Cocoa
Cocoa Beach	Crystal River
Destin	Dunedin
Eustis	Flagler Beach
Fort Walton Beach	Harmony
Indian River Rocks	Jacksonville
Jacksonville Beach	Manatee County
Marco Island	Martin County
Melbourne	Melbourne Beach
Miami	Miami Beach
Mount Dora	Neptune Beach
North Redington Beach	Okaloosa County
Palm Beach Gardens	Panama City Beach
Panama City	Punta Gorda
Sarasota	Sarasota County
St. Augustine	St. Augustine Beach
St. Petersburg	Stuart
Tampa	Tavares
Vero Beach	

7.633 - Public food service establishment requirements local exemption...

http://www.flsenate.gov/Laws/Statutes/2011/509.233

7.633 - Public food service establishment requirements local exemption...

http://www.flsenate.gov/Laws/Statutes/

7.233

## The Florida Senate

### 2011 Florida Statutes

TITLE XXXIII REGULATION OF TRADE, COMMERCE, INVESTMENTS, AND SOLICITATIONS	CHAPTER 509 LODGING AND FOOD SERVICE ESTABLISHMENTS; MEMBERSHIP CAMPGROUNDS	VIEW ENTIRE CHAPTER
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#### 509.233 Public food service establishment requirements; local exemption for dogs in designated outdoor portions. —

(1) LOCAL EXEMPTION AUTHORIZED. — Notwithstanding s. 509.032(7), the governing body of a local government may establish, by ordinance, a local exemption procedure to certain provisions of the Food and Drug Administration Food Code, as currently adopted by the division, in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments.

#### (2) LOCAL DISCRETION; CODIFICATION. —

(a) The adoption of the local exemption procedure shall be at the sole discretion of the governing body of a participating local government. Nothing in this section shall be construed to require or compel a local governing body to adopt an ordinance pursuant to this section.

(b) Any ordinance adopted pursuant to this section shall provide for codification within the land development code of a participating local government.

#### (3) LIMITATIONS ON EXEMPTION; PERMIT REQUIREMENTS. —

(a) Any local exemption procedure adopted pursuant to this section shall only provide a variance to those portions of the currently adopted Food and Drug Administration Food Code in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments.

(b) In order to protect the health, safety, and general welfare of the public, the local exemption procedure shall require participating public food service establishments to apply for and receive a permit from the governing body of

the local government before allowing patrons' dogs on their premises. The local government shall require from the applicant such information as the local government deems reasonably necessary to enforce the provisions of this section, but shall require, at a minimum, the following information:

1. The name, location, and mailing address of the public food service establishment.
2. The name, mailing address, and telephone contact information of the permit applicant.
3. A diagram and description of the outdoor area to be designated as available to patrons' dogs, including dimensions of the designated area; a depiction of the number and placement of tables, chairs, and restaurant equipment, if any; the entryways and exits to the designated outdoor area; the boundaries of the designated area and of other areas of outdoor dining not available for patrons' dogs; any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways; and such other information reasonably required by the permitting authority. The diagram or plan shall be accurate and to scale but need not be prepared by a licensed design professional.

4. A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area.

(c) In order to protect the health, safety, and general welfare of the public, the local exemption ordinance shall include such regulations and limitations as deemed necessary by the participating local government and shall include, but not be limited to, the following requirements:

1. All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling dogs. Employees shall be prohibited from touching, petting, or otherwise handling dogs while serving food or beverages or handling tableware or before entering other parts of the public food service establishment.

2. Patrons in a designated outdoor area shall be advised that they should wash their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.



3. Employees and patrons shall be instructed that they shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations.

4. Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.

5. Dogs shall not be allowed on chairs, tables, or other furnishings.

6. All table and chair surfaces shall be cleaned and sanitized with an approved product between seating of patrons. Spilled food and drink shall be removed from the floor or ground between seating of patrons.

7. Accidents involving dog waste shall be cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.

8. A sign or signs reminding employees of the applicable rules shall be posted on premises in a manner and place as determined by the local permitting authority.

9. A sign or signs reminding patrons of the applicable rules shall be posted on premises in a manner and place as determined by the local permitting authority.

10. A sign or signs shall be posted in a manner and place as determined by the local permitting authority that places the public on notice that the designated outdoor area is available for the use of patrons and patrons' dogs.

11. Dogs shall not be permitted to travel through indoor or nondesignated outdoor portions of the public food service establishment, and ingress and egress to the designated outdoor portions of the public food service establishment must not require entrance into or passage through any indoor area of the food establishment.

(d) A permit issued pursuant to this section shall not be transferred to a subsequent owner upon the sale of a public food service establishment but shall expire automatically upon the sale of the establishment. The subsequent owner shall be required to reapply for a permit pursuant to this section if the subsequent owner wishes to continue to accommodate patrons' dogs.

(4) POWERS; ENFORCEMENT.—Participating local governments shall

have such powers as are reasonably necessary to regulate and enforce the provisions of this section.

(5) STATE AND LOCAL COOPERATION.—The division shall provide reasonable assistance to participating local governments in the development enforcement procedures and regulations, and participating local government shall monitor permit holders for compliance in cooperation with the division. a minimum, participating local governments shall establish a procedure to accept, document, and respond to complaints and to timely report to the division all such complaints and the participating local governments' enforcement responses to such complaints. A participating local government shall provide the division with a copy of all approved applications and perm issued, and the participating local government shall require that all applications, permits, and other related materials contain the appropriate division-issued license number for each public food service establishment.

**History.**—s. 3, ch. 2006-72; s. 127, ch. 2007-5; s. 46, ch. 2009-195.

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes.  
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RECEIVED  
OCT 12 2012  
CITY MANAGERS OFFICE



PATRICK DAUGHERTY  
30 Dix Avenue  
Ormond Beach, Florida 32174

October 10, 2012

October 12, 2012

Ms. Joyce Shanahan, City Manager  
22 South Beach Street  
Ormond Beach, Florida 32174

Dear Ms. Shanahan,

Enclosed please find several copies of the most recent letters published from restaurants in our city strongly voicing their support for the proposed "Dog Dining" ordinance. Please see that these are distributed to the Mayor and commissioners.

With this addition the list now reads, The Dish, Daytona Pig Stand, Lu Lu's, Mango Sun, and Einstein Brother's Bagels, which is a total of five. I have had positive responses also from D. B. Pickles, Riptides, and The Smoke Shack BBQ. I am not sure that they will be forthcoming with letters, as I have found that all restaurant owners and managers are hard working busy people with limited time. The situation is calling for patience. Also we all need to realize that the only restaurants involved in this are those who already have exterior dining facilities which are accessible from the parking areas.

At this point I would like very much to speak with you in order to have two questions answered. Firstly, what action (if any) has the commission taken thus far on the matter, and secondly, given that I have little experience, am I in your opinion going about this effort correctly? I am considering speaking again to the commission this coming Tuesday.

I can be reached most days at our home phone which is 672- 7138. Thank you again for your attention to this request.

Sincerely

Patrick Daugherty

Mayor Kelly, the City Commission of Ormond Beach Florida  
And Ormond Beach Mainstreet  
22 South Beach Street  
Ormond Beach, FL 32174

Dear Mayor Kelley and Commissioners:

As part of the Ormond Beach business community, LuLu's strives to offer a quality dining experience to both our local residents and the tourists that visit our area each year. Pet friendly dining is widely accepted in cities across the United States and LuLu's would like to express its support of Florida Statute #509-233. This statute grants individual cities to issue permits to allowing dogs to accompany their owners in designated outdoor dining areas. Cities in counties all around us have been pet friendly for some time and Volusia County has now accepted this as well. Daytona Beach is already proceeding in this direction with their permit process.

We understand our responsibilities under the state statute and are more than happy to abide by the rules so that we, too, can offer this dining experience to our customers, both local and visiting. With the widespread acceptance of pet-friendly dining, we are hoping Ormond Beach will see this as a natural step in showcasing Ormond Beach as a city to visit, place to dine with their pets and enjoy/support local businesses.

Please consider our request to adopt an ordinance to accept pet-friendly dining in Ormond Beach. We look forward to your decision.

Sincerely,

Ron DeFilippo  
Owner

Copies to: Commissioners Partington, Stowers, Boehm, Kent, City Manager Shanahan, Julia Trullo

TRANS, Inc. DBA LuLu's Oceanside Grill  
195 Coquina Court  
Ormond Beach, FL 32176



1185 West Granada Blvd Suite 1  
Ormond Beach, FL 32174

Mayor Kelly

Copy to City Managers and City Commissioners

I am have recently been informed about the possible amendment of dining laws concerning dog owners being allowed to bring their pets to restaurants with outside dining. Here at The Dish Tavern and Grille we have a beautiful outside dining area that would love to support dog owners and their pets. I know that several other counties and cities in Florida require restaurants to obtain permits allowing pets on outside dining areas and have been very successful in doing so. I feel that the addition of this select demographic of the community would appreciate this service and in turn would raise profitability for our local businesses. The introduction of renewable permits by Ormond Beach would also be an easy way to generate money by the city for the community.

The one big concern that the public would have is the health regulations with sharing dining space with canines. We dine at home with our pets on a daily basis without having a second thought about the consequences of having a dog present. Proper training of staff members and dog owners alike would be a simple procedure to follow. My staff understands that touching pets is not allowed while serving or cooking food. My guests understand that they are responsible for the behavior of the dog and any issues that may incur with presence of a dog in public. Seminole county has a well-structured and easy to follow set of guidelines that have been implemented for this very matter and could be a useful model for Ormond Beach to follow.

In conclusion, I feel this can be a win win situation for the community. I give my full endorsement to the legalization of dogs allowed to accompany their owners to The Dish Tavern and Grille. I am born and raised in Ormond Beach and would never let my dedication to The Dish be a reason to disrupt the harmony of Ormond Beach and its laws.

Sincerely, Patrick Graham

Patrick Graham  
General Manager  
The Dish Tavern and Grille  
1185 W Granada Blvd suite 1  
(386) 672-3567  
thedishtavernandgrille@gmail.com

Daytona Pig Stand

1633 N- US #1 Ormond Beach, FL 32174

PH: 386-898-0360 / FX: 386-898-0361

EMAIL: dps@metrocorral.com

RECEIVED  
OCT 12 2012  
CITY MANAGERS OFFICE

Saturday, July 07, 2012

The Honorable Mayor Ed Kelley

22 South Beach Street  
Ormond Beach, FL 32174

Dear Mayor Kelley,

As a restaurateur of our beautiful community of Ormond Beach City, FL, I would like to as you to seriously consider convincing our city commission to follow Florida Statute #509-233, which grants individual cities to issue permits allowing dogs to accompany their guardians in outdoor dining areas of licensed food service businesses. It is a niche market for business opportunity that is directly requested and sought out by numerous local citizens and tourist alike who travel with their dogs as part of the family.

The endeavor should be offered as a courtesy of the business and strictly monitored by the individual owner and the county health department, as stated by the permit. Areas for those clients who are not pet friendly should be respectfully designated, as well as for those whom are animal lovers. Pet friendly restaurants should permit outside dining accommodations only, unless patron is accompanied by a credentialed service trained animal; by law.

No requirements should be instituted for individual businesses to participate and cost for administering this permit should be kept to a minimum, if any at all are applied. It is a win-win situation for both city and business who are willing to participate in this low cost revenue enhancing strategy. Please consider the following request to begin adopting an ordinance to this advantage.

Thanks for your attention to this matter,

Shane Westervelt

CC: Commissioners: Stowers, Boehm, Kent, Partington & City Mgr. Shanahan

09-20-12 P12:29 RCVD

## EINSTEIN BROTHERS BAGELS

110 South Nova Road  
Ormond Beach, Florida

RECEIVED

SEP 20 2012

CITY MANAGERS OFFICE

The City Commission of Ormond Beach Florida  
22 South Beach Street  
Ormond Beach, Florida 32174

Dear Mayor Kelley and Commissioners

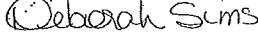
It is my understanding that a proposal has been made to the commission to adopt an ordinance which would allow dog dining in the city. As manager of the Einstein Brothers Bagel Shop in the River Gate Shopping center at 110 South Nova Road, I would like you to know that I strongly support this proposal.

I feel that our restaurant would benefit from such an ordinance, as several of our patrons have expressed an interest in bringing their dogs to breakfast or lunch on our patio. In reviewing the state statute which would allow the city to adopt such an ordinance, the rules seem to be fair, sensible, and in the interest of protecting the health of the public while at the same time, allowing dog owners to enjoy their pets.

I would like to ask that you keep the application fee for a dog dining permit as low as possible so as not to become a financial burden on our restaurant, and upon other restaurant owners in the area who wish to participate.

If you have any questions regarding our position, I can be reached at 615 1652, or better yet, please come by and enjoy our vast selection of wonderful bagels and delicious coffee. We strive to serve the best.

Sincerely,



Deborah Sims, General Manager.

Copy: Commissioners Partington, Kent, Sowers, Boehm, City Manager Shanahan

*HC Jed*

*HC Mayor + CC*

Attachment: Attachment A (1347 : Land Development Code Amendment - Doggie Dining)



OCT 15 2012



October 10, 2012

Mayor Kelly, the City Commission of Ormond Beach Florida  
And Ormond Beach Mainstreet  
22 South Beach Street  
Ormond Beach, FL 32174

Dear Mayor Kelley and Commissioners:

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Please consider our request to adopt an ordinance to accept pet-friendly dining in Ormond Beach. We look forward to your decision.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeFilippo".

Ron DeFilippo  
Owner

Copies to: Commissioners Partington, Stowers, Boehm, Kent, City Manager Shanahan, Julia Truilo

---

TRANDS, Inc. DBA LuLu's Oceanside Grill  
195 Coquina Court  
Ormond Beach, FL 32176

# Daytona Pig Stand

1633 N. US #1 Ormond Beach, FL 32174

PH: 386-898-0360 / FX: 386-898-0361

EMAIL: dps@metrocorral.com

OCT 05 2012

Saturday, July 07, 2012

The Honorable Mayor Ed Kelley

22 South Beach Street

Ormond Beach, FL 32174

Dear Mayor Kelley,

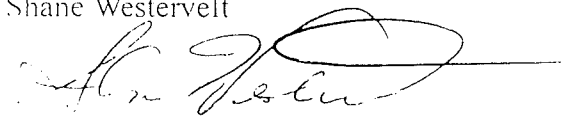
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Thanks for your attention to this matter,

Shane Westervelt



CC: Commissioners: Stowers, Boehm, Kent, Partington & City Mgr. Shanahan

Attachment: Attachment A (1347 : Land Development Code Amendment - Doggie Dining)

09-20-12 P12:29 -RCVD

## EINSTEIN BROTHERS BAGELS

110 South Nova Road  
Ormond Beach, Florida

RECEIVED

SEP 20 2012

CITY MANAGERS OFFICE

The City Commission of Ormond Beach Florida  
22 South Beach Street  
Ormond Beach, Florida 32174

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If you have any questions regarding our position, I can be reached at 615 1652, or better yet, please come by and enjoy our vast selection of wonderful bagels and delicious coffee. We strive to serve the best.

Sincerely



Deborah Sims, General Manager.

Copy: Commissioners Partington, Kent, Sowers, Boehm, City Manager Shanahan

x/c Ted

Attachment: Attachment A (1347 : Land Development Code Amendment - Doggie Dining)